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REPORTS:

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No

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Yes

"Governor signs bill mandating prison for third DWI," 1-21-2004 The Press, p.C1

"Drunk driving law tough on repeaters," 1-21-2004 Courier Post, p.1B

P.L. 2003, CHAPTER 315, *approved January 20, 2004*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 3342

1 AN ACT concerning driving while under the influence, amending and
2 supplementing R.S.39:4-50 and R.S.39:4-51.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) P.L. , c. ¹[(C.)]¹ shall be known and
8 may be cited as "Michael's Law."

9

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

11 39:4-50. (a) Except as provided in subsection (g) of this section,
12 a person who operates a motor vehicle while under the influence of
13 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,
14 or operates a motor vehicle with a blood alcohol concentration of
15 0.10% or more by weight of alcohol in the defendant's blood or
16 permits another person who is under the influence of intoxicating
17 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
18 motor vehicle owned by him or in his custody or control or permits
19 another to operate a motor vehicle with a blood alcohol concentration
20 of 0.10% or more by weight of alcohol in the defendant's blood shall
21 be subject:

22 (1) For the first offense, to a fine of not less than \$250.00 nor
23 more than \$400.00 and a period of detainment of not less than 12
24 hours nor more than 48 hours spent during two consecutive days of
25 not less than six hours each day and served as prescribed by the
26 program requirements of the Intoxicated Driver Resource Centers
27 established under subsection (f) of this section and, in the discretion
28 of the court, a term of imprisonment of not more than 30 days and
29 shall forthwith forfeit his right to operate a motor vehicle over the
30 highways of this State for a period of not less than six months nor
31 more than one year. For a first offense, a person also shall be subject
32 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

33 (2) For a second violation, a person shall be subject to a fine of
34 not less than \$500.00 nor more than \$1,000.00, and shall be ordered
35 by the court to perform community service for a period of 30 days,
36 which shall be of such form and on such terms as the court shall deem
37 appropriate under the circumstances, and shall be sentenced 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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted November 24, 2003.

1 imprisonment for a term of not less than 48 consecutive hours, which
2 shall not be suspended or served on probation, nor more than 90 days,
3 and shall forfeit his right to operate a motor vehicle over the highways
4 of this State for a period of two years upon conviction, and, after the
5 expiration of said period, he may make application to the ¹[Director
6 of the Division of Motor Vehicles] administrator¹ for a license to
7 operate a motor vehicle, which application may be granted at the
8 discretion of the ¹[director] administrator¹, consistent with subsection
9 (b) of this section. For a second violation, a person also shall be
10 required to install an ignition interlock device under the provisions of
11 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
12 certificate and registration plates revoked for two years under the
13 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

14 (3) For a third or subsequent violation, a person shall be subject
15 to a fine of \$1,000.00, and shall be sentenced to ¹[90 days]¹
16 imprisonment [for a term of not less than 180 days, except that the
17 court may lower such term for each day, not exceeding 90 days,
18 served performing community service in such form and on such terms
19 as the court shall deem appropriate under the circumstances] ¹for a
20 term of not less than 180 days¹ in a county jail or workhouse ¹[and
21 ordered by the court to participate], except that the court may lower
22 such term for each day, not exceeding 90 days, served participating¹
23 in a ¹[90-day]¹ drug or alcohol inpatient rehabilitation program
24 approved by the ¹[court] Intoxicated Driver Resource Center ¹and
25 shall thereafter forfeit his right to operate a motor vehicle over the
26 highways of this State for 10 years. For a third or subsequent
27 violation, a person also shall be required to install an ignition interlock
28 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
29 or shall have his registration certificate and registration plates revoked
30 for 10 years under the provisions of section 2 of P.L.1995, c.286
31 (C.39:3-40.1).

32 As used in this section, the phrase "narcotic, hallucinogenic or
33 habit-producing drug" includes an inhalant or other substance
34 containing a chemical capable of releasing any toxic vapors or fumes
35 for the purpose of inducing a condition of intoxication, such as any
36 glue, cement or any other substance containing one or more of the
37 following chemical compounds: acetone and acetate, amyl nitrite or
38 amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite,
39 butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite
40 or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl
41 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl
42 alcohol, pentachlorophenol, petroleum ether, propyl ¹[nitrate] nitrite¹
43 or propyl nitrate or their isomers, toluene, toluol or xylene or any
44 other chemical substance capable of causing a condition of
45 intoxication, inebriation, excitement, stupefaction or the dulling of the

1 brain or nervous system as a result of the inhalation of the fumes or
2 vapors of such chemical substance.

3 Whenever an operator of a motor vehicle has been involved in an
4 accident resulting in death, bodily injury or property damage, a police
5 officer shall consider that fact along with all other facts and
6 circumstances in determining whether there are reasonable grounds to
7 believe that person was operating a motor vehicle in violation of this
8 section.

9 A conviction of a violation of a law of a substantially similar nature
10 in another jurisdiction, regardless of whether that jurisdiction is a
11 signatory to the Interstate Driver License Compact pursuant to
12 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction
13 under this subsection unless the defendant can demonstrate by clear
14 and convincing evidence that the conviction in the other jurisdiction
15 was based exclusively upon a violation of a proscribed blood alcohol
16 concentration of less than 0.10%.

17 If the driving privilege of any person is under revocation or
18 suspension for a violation of any provision of this Title or Title 2C of
19 the New Jersey Statutes at the time of any conviction for a violation
20 of this section, the revocation or suspension period imposed shall
21 commence as of the date of termination of the existing revocation or
22 suspension period. In the case of any person who at the time of the
23 imposition of sentence is less than 17 years of age, the forfeiture,
24 suspension or revocation of the driving privilege imposed by the court
25 under this section shall commence immediately, run through the
26 offender's seventeenth birthday and continue from that date for the
27 period set by the court pursuant to paragraphs (1) through (3) of this
28 subsection. A court that imposes a term of imprisonment for a first or
29 second offense under this section may sentence the person so
30 convicted to the county jail, to the workhouse of the county wherein
31 the offense was committed, to an inpatient rehabilitation program or
32 to an Intoxicated Driver Resource Center or other facility approved by
33 the chief of the Intoxicated Driving Program Unit in the Department
34 of Health and Senior Services[; provided that for]. For a third or
35 subsequent offense a person shall not serve a term of imprisonment at
36 an Intoxicated Driver Resource Center as provided in subsection (f).

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

46 (b) A person convicted under this section must satisfy the

1 screening, evaluation, referral, program and fee requirements of the
2 Division of Alcoholism and Drug Abuse's Intoxicated Driving Program
3 Unit, and of the Intoxicated Driver Resource Centers and a program
4 of alcohol and drug education and highway safety, as prescribed by the
5 ¹[Director of the Division of Motor Vehicles] administrator¹. The
6 sentencing court shall inform the person convicted that failure to
7 satisfy such requirements shall result in a mandatory two-day term of
8 imprisonment in a county jail and a driver license revocation or
9 suspension and continuation of revocation or suspension until such
10 requirements are satisfied, unless stayed by court order in accordance
11 with the Rules Governing the Courts of the State of New Jersey, or
12 R.S.39:5-22. Upon sentencing, the court shall forward to the Division
13 of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit a
14 copy of a person's conviction record. A fee of \$100.00 shall be
15 payable to the Alcohol Education, Rehabilitation and Enforcement
16 Fund established pursuant to section 3 of P.L.1983, c.531
17 (C.26:2B-32) to support the Intoxicated Driving Program Unit.

18 (c) Upon conviction of a violation of this section, the court shall
19 collect forthwith the New Jersey driver's license or licenses of the
20 person so convicted and forward such license or licenses to the
21 ¹[Director of the Division of Motor Vehicles] administrator¹. The
22 court shall inform the person convicted that if he is convicted of
23 personally operating a motor vehicle during the period of license
24 suspension imposed pursuant to subsection (a) of this section, he shall,
25 upon conviction, be subject to the penalties established in R.S.39:3-40.
26 The person convicted shall be informed orally and in writing. A
27 person shall be required to acknowledge receipt of that written notice
28 in writing. Failure to receive a written notice or failure to acknowledge
29 in writing the receipt of a written notice shall not be a defense to a
30 subsequent charge of a violation of R.S.39:3-40. In the event that a
31 person convicted under this section is the holder of any out-of-State
32 driver's license, the court shall not collect the license but shall notify
33 forthwith the ¹[director] administrator¹, who shall, in turn, notify
34 appropriate officials in the licensing jurisdiction. The court shall,
35 however, revoke the nonresident's driving privilege to operate a motor
36 vehicle in this State, in accordance with this section. Upon conviction
37 of a violation of this section, the court shall notify the person
38 convicted, orally and in writing, of the penalties for a second, third or
39 subsequent violation of this section. A person shall be required to
40 acknowledge receipt of that written notice in writing. Failure to
41 receive a written notice or failure to acknowledge in writing the
42 receipt of a written notice shall not be a defense to a subsequent
43 charge of a violation of this section.

44 (d) The ¹[Director of the Division of Motor Vehicles]
45 administrator¹ shall promulgate rules and regulations pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)

1 in order to establish a program of alcohol education and highway
2 safety, as prescribed by this act.

3 (e) Any person accused of a violation of this section who is liable
4 to punishment imposed by this section as a second or subsequent
5 offender shall be entitled to the same rights of discovery as allowed
6 defendants pursuant to the Rules Governing the Courts of the State of
7 New Jersey.

8 (f) The counties, in cooperation with the Division of Alcoholism
9 and Drug Abuse and the ¹[Division of Motor Vehicles] commission¹,
10 but subject to the approval of the Division of Alcoholism and Drug
11 Abuse, shall designate and establish on a county or regional basis
12 Intoxicated Driver Resource Centers. These centers shall have the
13 capability of serving as community treatment referral centers and as
14 court monitors of a person's compliance with the ordered treatment,
15 service alternative or community service. All centers established
16 pursuant to this subsection shall be administered by a counselor
17 certified by the Alcohol and Drug Counselor Certification Board of
18 New Jersey or other professional with a minimum of five years'
19 experience in the treatment of alcoholism. All centers shall be required
20 to develop individualized treatment plans for all persons attending the
21 centers; provided that the duration of any ordered treatment or referral
22 shall not exceed one year. It shall be the center's responsibility to
23 establish networks with the community alcohol and drug education,
24 treatment and rehabilitation resources and to receive monthly reports
25 from the referral agencies regarding a person's participation and
26 compliance with the program. Nothing in this subsection shall bar
27 these centers from developing their own education and treatment
28 programs; provided that they are approved by the Division of
29 Alcoholism and Drug Abuse.

30 Upon a person's failure to report to the initial screening or any
31 subsequent ordered referral, the Intoxicated Driver Resource Center
32 shall promptly notify the sentencing court of the person's failure to
33 comply.

34 Required detention periods at the Intoxicated Driver Resource
35 Centers shall be determined according to the individual treatment
36 classification assigned by the Intoxicated Driving Program Unit. Upon
37 attendance at an Intoxicated Driver Resource Center, a person shall be
38 required to pay a per diem fee of \$75.00 for the first offender program
39 or a per diem fee of \$100.00 for the second offender program, as
40 appropriate. Any increases in the per diem fees after the first full year
41 shall be determined pursuant to rules and regulations adopted by the
42 Commissioner of Health and Senior Services in consultation with the
43 Governor's Council on Alcoholism and Drug Abuse pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.).

46 The centers shall conduct a program of alcohol and drug education

1 and highway safety, as prescribed by the ¹[Director of the Division of
2 Motor Vehicles] administrator¹.

3 The Commissioner of Health and Senior Services shall adopt rules
4 and regulations pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the
6 purposes of this subsection.

7 (g) When a violation of this section occurs while:

8 (1) on any school property used for school purposes which is
9 owned by or leased to any elementary or secondary school or school
10 board, or within 1,000 feet of such school property;

11 (2) driving through a school crossing as defined in R.S.39:1-1 if
12 the municipality, by ordinance or resolution, has designated the school
13 crossing as such; or

14 (3) driving through a school crossing as defined in R.S.39:1-1
15 knowing that juveniles are present if the municipality has not
16 designated the school crossing as such by ordinance or resolution, the
17 convicted person shall: for a first offense, be fined not less than \$500
18 or more than \$800, be imprisoned for not more than 60 days and have
19 his license to operate a motor vehicle suspended for a period of not
20 less than one year or more than two years; for a second offense, be
21 fined not less than \$1,000 or more than \$2,000, perform community
22 service for a period of 60 days, be imprisoned for not less than 96
23 consecutive hours, which shall not be suspended or served on
24 probation, nor more than 180 days, except that the court may lower
25 such term for each day, not exceeding 90 days, served performing
26 community service in such form and on such terms as the court shall
27 deem appropriate under the circumstances and have his license to
28 operate a motor vehicle suspended for a period of not less than four
29 years; and, for a third offense, be fined \$2,000, imprisoned for 180
30 days ¹in a county jail or workhouse, except that the court may lower
31 such term for each day, not exceeding 90 days, served participating in
32 a drug or alcohol inpatient rehabilitation program approved by the
33 Intoxicated Driver Resource Center,¹ and have his license to operate
34 a motor vehicle suspended for a period of 20 years; the period of
35 license suspension shall commence upon the completion of any prison
36 sentence imposed upon that person.

37 A map or true copy of a map depicting the location and boundaries
38 of the area on or within 1,000 feet of any property used for school
39 purposes which is owned by or leased to any elementary or secondary
40 school or school board produced pursuant to section 1 of P.L.1987,
41 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
42 of this subsection.

43 It shall not be relevant to the imposition of sentence pursuant to
44 paragraph (1) or (2) of this subsection that the defendant was unaware
45 that the prohibited conduct took place while on or within 1,000 feet
46 of any school property or while driving through a school crossing.

1 Nor shall it be relevant to the imposition of sentence that no juveniles
2 were present on the school property or crossing zone at the time of the
3 offense or that the school was not in session.

4 (h) A court also may order a person convicted pursuant to
5 subsection a. of this section, to participate in a supervised visitation
6 program as either a condition of probation or a form of community
7 service, giving preference to those who were under the age of 21 at
8 the time of the offense. Prior to ordering a person to participate in
9 such a program, the court may consult with any person who may
10 provide useful information on the defendant's physical, emotional and
11 mental suitability for the visit to ensure that it will not cause any injury
12 to the defendant. The court also may order that the defendant
13 participate in a counseling session under the supervision of the
14 Intoxicated Driving Program Unit prior to participating in the
15 supervised visitation program. The supervised visitation program shall
16 be at one or more of the following facilities which have agreed to
17 participate in the program under the supervision of the facility's
18 personnel and the probation department:

19 (1) a trauma center, critical care center or acute care hospital
20 having basic emergency services, which receives victims of motor
21 vehicle accidents for the purpose of observing appropriate victims of
22 drunk drivers and victims who are, themselves, drunk drivers;

23 (2) a facility which cares for advanced alcoholics or drug abusers,
24 to observe persons in the advanced stages of alcoholism or drug abuse;
25 or

26 (3) if approved by a county medical examiner, the office of the
27 county medical examiner or a public morgue to observe appropriate
28 victims of vehicle accidents involving drunk drivers.

29 As used in this section, "appropriate victim" means a victim whose
30 condition is determined by the facility's supervisory personnel and the
31 probation officer to be appropriate for demonstrating the results of
32 accidents involving drunk drivers without being unnecessarily
33 gruesome or traumatic to the defendant.

34 If at any time before or during a visitation the facility's supervisory
35 personnel and the probation officer determine that the visitation may
36 be or is traumatic or otherwise inappropriate for that defendant, the
37 visitation shall be terminated without prejudice to the defendant. The
38 program may include a personal conference after the visitation, which
39 may include the sentencing judge or the judge who coordinates the
40 program for the court, the defendant, defendant's counsel, and, if
41 available, the defendant's parents to discuss the visitation and its effect
42 on the defendant's future conduct. If a personal conference is not
43 practicable because of the defendant's absence from the jurisdiction,
44 conflicting time schedules, or any other reason, the court shall require
45 the defendant to submit a written report concerning the visitation
46 experience and its impact on the defendant. The county, a court, any

1 facility visited pursuant to the program, any agents, employees, or
2 independent contractors of the court, county, or facility visited
3 pursuant to the program, and any person supervising a defendant
4 during the visitation, are not liable for any civil damages resulting from
5 injury to the defendant, or for civil damages associated with the
6 visitation which are caused by the defendant, except for willful or
7 grossly negligent acts intended to, or reasonably expected to result in,
8 that injury or damage.

9 The Supreme Court may adopt court rules or directives to
10 effectuate the purposes of this subsection.

11 (i) In addition to any other fine, fee, or other charge imposed
12 pursuant to law, the court shall assess a person convicted of a
13 violation of the provisions of this section a surcharge of \$100, of
14 which amount \$50 shall be payable to the municipality in which the
15 conviction was obtained and \$50 shall be payable to the Treasurer of
16 the State of New Jersey for deposit into the General Fund.

17 (cf: P.L.2002, c.34, s.17)

18
19 3. R.S.39:4-51 is amended to read as follows:

20 A person who has been convicted of **[violating]** a first or second
21 violation of section 39:4-50 of this Title, and in pursuance thereof has
22 been imprisoned in a county jail or workhouse in the county in which
23 the offense was committed, shall not, after commitment, be released
24 therefrom until the term of imprisonment imposed has been served. A
25 person imprisoned in the county jail or workhouse may in the
26 discretion of the court, be released on a work release program.

27 No warden or other officer having custody of the county jail or
28 workhouse shall release therefrom a person so committed, unless the
29 person has been released by the court on a work release program, until
30 the sentence has been served. A person sentenced to an inpatient
31 rehabilitation program may upon petition by the treating agency be
32 released, by the court, to an outpatient rehabilitation program for the
33 duration of the original sentence.

34 Nothing in this section shall be construed to interfere in any way
35 with the operation of a writ of habeas corpus, a proceeding in lieu of
36 the prerogative writs, or an appeal.

37 The ¹**[director]** administrator shall adopt such rules and
38 regulations to effectuate the provisions of this section as he shall deem
39 necessary.

40 (cf: P.L.1977, c.29, s.5)

41
42 4. This act shall take effect immediately.

43
44 _____
45
46 "Michael's Law;" imposes mandatory jail time and rehabilitation for
47 third or subsequent drunk driving offenses.

ASSEMBLY, No. 3342

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 13, 2003

Sponsored by:

Assemblyman NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblyman Ahearn

SYNOPSIS

"Michael's Law;" criminalizes third or subsequent drunk driving offenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/4/2003)

1 AN ACT concerning driving while under the influence, supplementing
2 Title 2C of the New Jersey Statutes and amending various sections
3 of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as
9 "Michael's Law."

10

11 2. (New section) a. A person who operates a motor vehicle while
12 under the influence of intoxicating liquor, narcotic, hallucinogenic or
13 habit-producing drug, or operates a motor vehicle with a blood alcohol
14 concentration of 0.10% or more by weight of alcohol in the
15 defendant's blood or permits another person who is under the influence
16 of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug
17 to operate a motor vehicle owned by him or in his custody or control
18 or permits another to operate a motor vehicle with a blood alcohol
19 concentration of 0.10% or more by weight of alcohol in the
20 defendant's blood shall for a third or subsequent violation be guilty of
21 a crime of the fourth degree and, notwithstanding the provisions of
22 subsection c. of N.J.S.2C:43-2, shall forfeit his right to operate a
23 motor vehicle over the highways of this State for 10 years. In
24 addition, the person shall be sentenced to imprisonment for a term of
25 not less than 180 days, except that the court may lower such term for
26 each day, not exceeding 90 days, of participation in a rehabilitation
27 program for drug and alcohol dependent persons.

28

If such third or subsequent violation occurs while:

29

(1) on any school property used for school purposes which is
30 owned by or leased to any elementary or secondary school or school
31 board, or within 1,000 feet of such school property;

32

(2) driving through a school crossing as defined in R.S.39:1-1 if
33 the municipality, by ordinance or resolution, has designated the school
34 crossing as such; or

35

(3) driving through a school crossing as defined in R.S.39:1-1
36 knowing that juveniles are present and if the municipality has not
37 designated the school crossing as such by ordinance or resolution, the
38 convicted person shall be guilty of a crime of the third degree and,
39 notwithstanding the provisions of subsection c. of N.J.S.2C:43-2, shall
40 forfeit his right to operate a motor vehicle over the highways of this
41 State for 20 years.

42

If the driving privilege of any person is under revocation or
43 suspension for a violation of any provision of this Title or Title 39 of

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

Matter underlined thus is new matter.

1 the Revised Statutes at the time of any conviction for a violation of
2 this section, the revocation or suspension period imposed shall
3 commence as of the date of termination of the existing revocation or
4 suspension period. In the case of any person who at the time of the
5 imposition of sentence is less than 17 years of age, the forfeiture,
6 suspension or revocation of the driving privilege imposed by the court
7 under this section shall commence immediately, run through the
8 offender's seventeenth birthday and continue from that date for the
9 period set by the court. A court that imposes a term of imprisonment
10 under this section may sentence the person so convicted to the county
11 jail, to the workhouse of the county wherein the offense was
12 committed, to an inpatient rehabilitation program or other facility
13 approved by the chief of the Intoxicated Driving Program of the
14 Division of Addiction Services in the Department of Health and Senior
15 Services.

16 b. Pursuant to the requirements set forth in R.S.39:4-50, a person
17 convicted under this section shall satisfy the screening, evaluation,
18 referral, program and fee requirements of the Division of Addiction
19 Services' Intoxicated Driving Program, and of the Intoxicated Driver
20 Resource Centers and a program of alcohol education and highway
21 safety, as prescribed by the Director of the Division of Motor
22 Vehicles. The sentencing court shall inform the person convicted that
23 failure to satisfy such requirements shall result in a mandatory two-day
24 term of imprisonment in a county jail and a driver license revocation
25 or suspension and continuation of revocation or suspension until such
26 requirements are satisfied, unless stayed by court order in accordance
27 with Rule 7:8-2 of the Rules Governing the Courts of the State of
28 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward
29 to the Intoxicated Driving Program Unit a copy of a person's
30 conviction record. A fee of \$100 shall be payable to the Alcohol
31 Education, Rehabilitation and Enforcement Fund established pursuant
32 to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
33 Intoxicated Driving Program.

34 c. Upon conviction of a violation of this section, the court shall
35 collect forthwith the New Jersey driver's license or licenses of the
36 person so convicted and forward such license or licenses to the
37 Director of the Division of Motor Vehicles. The court shall inform the
38 person convicted that if he is convicted of personally operating a
39 motor vehicle during the period of license suspension imposed
40 pursuant to subsection a. of this section, he shall, upon conviction, be
41 subject to the penalties established in R.S.39:3-40. The person
42 convicted shall be informed orally and in writing. A person shall be
43 required to acknowledge receipt of that written notice in writing.
44 Failure to receive a written notice or failure to acknowledge in writing
45 the receipt of a written notice shall not be a defense to a subsequent
46 charge of a violation of R.S.39:3-40. In the event that a person

1 convicted under this section is the holder of any out of State driver's
2 license, the court shall not collect the license but shall notify forthwith
3 the director, who shall, in turn, notify appropriate officials in the
4 licensing jurisdiction. The court shall, however, revoke the
5 nonresident's driving privilege to operate a motor vehicle in this State,
6 in accordance with this section.

7
8 3. N.J.S.2C:11-5 is amended to read as follows:

9 2C:11-5. Death by auto or vessel. a. Criminal homicide
10 constitutes vehicular homicide when it is caused by driving a vehicle
11 or vessel recklessly.

12 b. Except as provided in paragraph (3) of this subsection, vehicular
13 homicide is a crime of the second degree.

14 (1) If the defendant was operating the auto or vessel while under
15 the influence of any intoxicating liquor, narcotic, hallucinogenic or
16 habit-producing drug, or with a blood alcohol concentration at or
17 above the prohibited level as prescribed in R.S.39:4-50 and section 2
18 of P.L. , c. (C.) (now pending before the Legislature as this
19 bill), or if the defendant was operating the auto or vessel while his
20 driver's license or reciprocity privilege was suspended or revoked for
21 any violation of R.S.39:4-50 or section 2 of P.L. , c. (C.) (now
22 pending before the Legislature as this bill), as applicable, section 2 of
23 P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of
24 Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by
25 the court for a violation of R.S.39:4-96, the defendant shall be
26 sentenced to a term of imprisonment by the court. The term of
27 imprisonment shall include the imposition of a minimum term. The
28 minimum term shall be fixed at, or between, one-third and one-half of
29 the sentence imposed by the court or three years, whichever is greater,
30 during which the defendant shall be ineligible for parole.

31 (2) The court shall not impose a mandatory sentence pursuant to
32 paragraph (1) of this subsection unless the grounds therefor have been
33 established at a hearing. At the hearing, which may occur at the time
34 of sentencing, the prosecutor shall establish by a preponderance of the
35 evidence that the defendant was operating the auto or vessel while
36 under the influence of any intoxicating liquor, narcotic, hallucinogenic
37 or habit-producing drug, or with a blood alcohol concentration at or
38 above the level prescribed in R.S.39:4-50 and section 2 of P.L. ,
39 c. (C.) (now pending before the Legislature as this bill), as
40 applicable, or that the defendant was operating the auto or vessel
41 while his driver's license or reciprocity privilege was suspended or
42 revoked for any violation of R.S.39:4-50 or section 2 of P.L. , c.
43 (C.) (now pending before the Legislature as this bill), section 2 of
44 P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division of
45 Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by
46 the court for a violation of R.S.39:4-96. In making its findings, the

1 court shall take judicial notice of any evidence, testimony or
2 information adduced at the trial, plea hearing, or other court
3 proceedings and shall also consider the presentence report and any
4 other relevant information.

5 (3) Vehicular homicide is a crime of the first degree if the
6 defendant was operating the auto or vessel while in violation of
7 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

8 (a) on any school property used for school purposes which is
9 owned by or leased to any elementary or secondary school or school
10 board, or within 1,000 feet of such school property;

11 (b) driving through a school crossing as defined in R.S.39:1-1 if
12 the municipality, by ordinance or resolution, has designated the school
13 crossing as such; or

14 (c) driving through a school crossing as defined in R.S.39:1-1
15 knowing that juveniles are present if the municipality has not
16 designated the school crossing as such by ordinance or resolution.

17 A map or true copy of a map depicting the location and boundaries
18 of the area on or within 1,000 feet of any property used for school
19 purposes which is owned by or leased to any elementary or secondary
20 school or school board produced pursuant to section 1 of P.L.1997,
21 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
22 (a) of this paragraph.

23 It shall be no defense to a prosecution for a violation of
24 subparagraph (a) or (b) of this paragraph that the defendant was
25 unaware that the prohibited conduct took place while on or within
26 1,000 feet of any school property or while driving through a school
27 crossing. Nor shall it be a defense to a prosecution under
28 subparagraph (a) or (b) of this paragraph that no juveniles were
29 present on the school property or crossing zone at the time of the
30 offense or that the school was not in session.

31 (4) If the defendant was operating the auto or vessel in violation
32 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
33 defendant's license to operate a motor vehicle shall be suspended for
34 a period of between five years and life, which period shall commence
35 upon completion of any prison sentence imposed upon that person.

36 c. For good cause shown, the court may, in accepting a plea of
37 guilty under this section, order that such plea not be evidential in any
38 civil proceeding.

39 d. Nothing herein shall be deemed to preclude, if the evidence so
40 warrants, an indictment and conviction for aggravated manslaughter
41 under the provisions of subsection a. of N.J.S.2C:11-4.

42 As used in this section, "auto or vessel" means all means of
43 conveyance propelled otherwise than by muscular power.

44 e. Any person who violates paragraph (3) of subsection b. of this
45 section shall forfeit the auto or vessel used in the commission of the
46 offense, unless the defendant can establish at a hearing, which may

1 occur at the time of sentencing, by a preponderance of the evidence
2 that such forfeiture would constitute a serious hardship to the family
3 of the defendant that outweighs the need to deter such conduct by the
4 defendant and others. In making its findings, the court shall take
5 judicial notice of any evidence, testimony or information adduced at
6 the trial, plea hearing, or other court proceedings and shall also
7 consider the presentence report and any other relevant information.
8 Forfeiture pursuant to this subsection shall be in addition to, and not
9 in lieu of, civil forfeiture pursuant to chapter 64 of this title.
10 (cf: P.L.1999, c.185, s.1.)

11

12 4. Section 2 of P.L.1979, c.396 (C.2C:43-3.1) is amended to read
13 as follows:

14 2. a. (1) In addition to any disposition made pursuant to the
15 provisions of N.J.S.2C:43-2, any person convicted of a crime of
16 violence, theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
17 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
18 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
19 of N.J.S.2C:20-10 shall be assessed at least \$100.00, but not to exceed
20 \$10,000.00 for each such crime for which he was convicted which
21 resulted in the injury or death of another person. In imposing this
22 assessment, the court shall consider factors such as the severity of the
23 crime, the defendant's criminal record, defendant's ability to pay and
24 the economic impact of the assessment on the defendant's dependents.

25 (2) (a) In addition to any other disposition made pursuant to the
26 provisions of N.J.S.2C:43-2 or any other statute imposing sentences
27 for crimes, any person convicted of any disorderly persons offense, any
28 petty disorderly persons offense, or any crime not resulting in the
29 injury or death of any other person shall be assessed \$50.00 for each
30 such offense or crime for which he was convicted.

31 (b) In addition to any other disposition made pursuant to the
32 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
33 statute indicating the dispositions that can be ordered for adjudications
34 of delinquency, any juvenile adjudicated delinquent, according to the
35 definition of "delinquency" established in section 4 of P.L.1982, c.77
36 (C.2A:4A-23), shall be assessed at least \$30.00 for each such
37 adjudication, but not to exceed the amount which could be assessed
38 pursuant to paragraph (1) or paragraph (2) (a) of subsection a. of this
39 section if the offense was committed by an adult.

40 (c) In addition to any other assessment imposed pursuant to the
41 provisions of R.S.39:4-50, section 2 of P.L. , c. (C.) (now
42 pending before the Legislature as this bill), the provisions of section
43 12 of P.L.1990, c.103 (C.39:3-10.20) relating to a violation of section
44 5 of P.L.1990, c.103 (C.39:3-10.13), the provisions of section 19 of
45 P.L.1954, c.236 (C.12:7-34.19) or the provisions of section 3 of
46 P.L.1952, c.157 (C.12:7-46), any person convicted of operating a

1 motor vehicle, commercial motor vehicle or vessel while under the
2 influence of liquor or drugs shall be assessed \$50.00.

3 (d) In addition to any term or condition that may be included in an
4 agreement for supervisory treatment pursuant to N.J.S.2C:43-13 or
5 imposed as a term or condition of conditional discharge pursuant to
6 N.J.S.2C:36A-1, a participant in either program shall be required to
7 pay an assessment of \$50.00.

8 (3) All assessments provided for in this section shall be collected
9 as provided in section 3 of P.L.1979, c.396 (C.2C:46-4) and the court
10 shall so order at the time of sentencing. When a defendant who is
11 sentenced to incarceration in a State correctional facility has not, at
12 the time of sentencing, paid an assessment for the crime for which he
13 is being sentenced or an assessment imposed for a previous crime, the
14 court shall specifically order the Department of Corrections to collect
15 the assessment during the period of incarceration and to deduct the
16 assessment from any income the inmate receives as a result of labor
17 performed at the institution or on any work release program or from
18 any personal account established in the institution for the benefit of the
19 inmate. All moneys collected, whether in part or in full payment of
20 any assessment imposed pursuant to this section, shall be forwarded
21 monthly by the parties responsible for collection, together with a
22 monthly accounting on forms prescribed by the Victims of Crime
23 Compensation Board pursuant to section 19 of P.L.1991, c.329
24 (C.52:4B-8.1), to the Victims of Crime Compensation Board.

25 (4) The Victims of Crime Compensation Board shall forward
26 monthly all moneys received from assessments collected pursuant to
27 this section to the State Treasury for deposit as follows:

28 (a) Of moneys collected on assessments imposed pursuant to
29 paragraph a. (1):

30 (i) the first \$72.00 collected for deposit in the Victims of Crime
31 Compensation Board Account,

32 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
33 and Revenue Collection Fund,

34 (iii) the next \$25.00 collected for deposit in the Victim Witness
35 Advocacy Fund, and

36 (iv) moneys collected in excess of \$100.00 for deposit in the
37 Victims of Crime Compensation Board Account;

38 (b) Of moneys collected on assessments imposed pursuant to
39 paragraph a. (2) (a), (c) or (d):

40 (i) the first \$39.00 collected for deposit in the Victims of Crime
41 Compensation Board Account,

42 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
43 and Revenue Collection Fund, and

44 (iii) the next \$8.00 collected for deposit in the Victim and Witness
45 Advocacy Fund;

46 (c) Of moneys collected on assessments imposed pursuant to

1 paragraph a. (2) (b):

2 (i) the first \$17.00 for deposit in the Victims of Crime
3 Compensation Board Account, and

4 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
5 and Revenue Collection Fund, and

6 (iii) the next \$10.00 for deposit in the Victim and Witness
7 Advocacy Fund, and

8 (iv) moneys collected in excess of \$30.00 for deposit in the Victims
9 of Crime Compensation Board Account.

10 (5) The Victims of Crime Compensation Board shall provide the
11 Attorney General with a monthly accounting of moneys received,
12 deposited and identified as receivable, on forms prescribed pursuant
13 to section 19 of P.L.1991, c.329 (C.52:4B-8.1).

14 (6) (a) The Victims of Crime Compensation Board Account shall
15 be a separate, nonlapsing, revolving account that shall be administered
16 by the Victims of Crime Compensation Board. All moneys deposited
17 in that Account shall be used in satisfying claims pursuant to the
18 provisions of the "Criminal Injuries Compensation Act of 1971,"
19 P.L.1971, c.317 (C.52:4B-1 et seq.) and for related administrative
20 costs.

21 (b) The Criminal Disposition and Revenue Collection Fund shall be
22 a separate, nonlapsing, revolving account that shall be administered by
23 the Victims of Crime Compensation Board. All moneys deposited in
24 that Fund shall be used as provided in section 19 of P.L.1991, c.329
25 (C.52:4B-8.1).

26 (c) The Victim and Witness Advocacy Fund shall be a separate,
27 nonlapsing, revolving fund and shall be administered by the Division
28 of Criminal Justice, Department of Law and Public Safety and all
29 moneys deposited in that Fund pursuant to this section shall be used
30 for the benefit of victims and witnesses of crime as provided in section
31 20 of P.L.1991, c.329 (C.52:4B-43.1) and for related administrative
32 costs.

33 b. (Deleted by amendment, P.L.1991, c.329).

34 c. (Deleted by amendment, P.L.1991, c.329).

35 d. (Deleted by amendment, P.L.1991, c.329).

36 (cf: P.L.1995, c.135, s.1)

37

38 5. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
39 as follows:

40 6. a. (Deleted by amendment, P.L.1997, c.151.)

41 b. There is created a New Jersey Merit Rating Plan which shall
42 apply to all drivers and shall include, but not be limited to, the
43 following provisions

44 (1) (a) Plan surcharges shall be levied, beginning on or after January
45 1, 1984, by the New Jersey Motor Vehicle Commission (hereafter the
46 "commission") established by section 4 of P.L.2003, c.13 (C.39:2A-4)

1 on any driver who, in the preceding 36-month period, has accumulated
2 six or more motor vehicle points, as provided in Title 39 of the
3 Revised Statutes; except that the allowance for a reduction of points
4 in Title 39 of the Revised Statutes shall not apply for the purpose of
5 determining surcharges under this paragraph. The accumulation of
6 points shall be calculated as of the date the point violation is posted to
7 the driver history record and shall be levied pursuant to rules
8 promulgated by the commission. Surcharges assessed pursuant to this
9 paragraph shall be \$100.00 for six points, and \$25.00 for each
10 additional point. No offense shall be selected for billing which
11 occurred prior to February 10, 1983. No offense shall be considered
12 for billing in more than three annual assessments

13 (b) (Deleted by amendment, P.L.1984, c.1.)

14 (2) Plan surcharges shall be levied for convictions (a) under
15 R.S.39:4-50 for violations occurring on or after February 10, 1983,
16 and under section 2 of P.L. , c. (C.) (now pending before the
17 Legislature as this bill) and (b) under section 2 of P.L.1981, c.512
18 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a
19 substantially similar nature to those under R.S.39:4-50, section 2 of
20 P.L. , c. (C.) (now pending before the Legislature as this bill),
21 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations
22 occurring on or after January 26, 1984. Except as hereinafter
23 provided, surcharges under this paragraph shall be levied annually for
24 a three-year period, and shall be \$1,000.00 per year for each of the
25 first two convictions, for a total surcharge of \$3,000 for each
26 conviction, and \$1,500.00 per year for the third conviction occurring
27 within a three-year period, for a total surcharge of \$4,500 for the third
28 conviction. If a driver is convicted under **[both]** either R.S.39:4-50 or
29 section 2 of P.L. , c. (C.) (now pending before the Legislature as
30 this bill) and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses
31 arising out of the same incident, the driver shall be assessed only one
32 surcharge for the two offenses.

33 If, upon written notification from the commission or its designee,
34 mailed to the last address of record with the commission, a driver fails
35 to pay a surcharge levied under this subsection, the driving privilege
36 of the driver shall be suspended forthwith until the minimum payment
37 requirement as set forth by rule by the commission is paid to the
38 commission; except that the commission may authorize payment of the
39 surcharge on an installment basis over a period not to exceed 12
40 months for assessments under \$2,300 or 24 months for assessments of
41 \$2,300 or more. If a driver fails to pay the surcharge or any
42 installments on the surcharge, the total surcharge shall become due
43 immediately, except as otherwise prescribed by rule of the commission.

44 The commission may authorize any person to pay the surcharge
45 levied under this section by use of a credit card, debit card or other
46 electronic payment device, and the administrator is authorized to

1 require the person to pay all costs incurred by the commission in
2 connection with the acceptance of the credit card, debit card or other
3 electronic payment device. If a surcharge or related administrative fee
4 is paid by credit or debit cards or any other electronic payment device
5 and the amount is subsequently reversed by the credit card company
6 or bank, the driving privilege of the surcharged driver shall be
7 suspended and the driver shall be subject to the fee imposed for
8 dishonored checks pursuant to section 31 of P.L.1994, c.60
9 (C.39:5-36.1).

10 In addition to any other remedy provided by law, the commission
11 is authorized to utilize the provisions of the SOIL (Set off of
12 Individual Liability) program established pursuant to P.L.1981, c.239
13 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
14 that is unpaid on or after the effective date of this act. As an additional
15 remedy, the commission may issue a certificate to the Clerk of the
16 Superior Court stating that the person identified in the certificate is
17 indebted under this surcharge law in such amount as shall be stated in
18 the certificate. The certificate shall reference the statute under which
19 the indebtedness arises. Thereupon the clerk to whom such certificate
20 shall have been issued shall immediately enter upon the record of
21 docketed judgments the name of such person as debtor; the State as
22 creditor; the address of such person, if shown in the certificate; the
23 amount of the debt so certified; a reference to the statute under which
24 the surcharge is assessed, and the date of making such entries. The
25 docketing of the entries shall have the same force and effect as a civil
26 judgment docketed in the Superior Court, and the commission shall
27 have all the remedies and may take all of the proceedings for the
28 collection thereof which may be had or taken upon the recovery of a
29 judgment in an action, but without prejudice to any right of appeal.
30 Upon entry by the clerk of the certificate in the record of docketed
31 judgments in accordance with this provision, interest in the amount
32 specified by the court rules for post-judgment interest shall accrue
33 from the date of the docketing of the certificate, however payment of
34 the interest may be waived by the commission or its designee. In the
35 event that the surcharge remains unpaid following the issuance of the
36 certificate of debt and the commission takes any further collection
37 action including referral of the matter to the Attorney General or his
38 designee, the fee imposed, in lieu of the actual cost of collection, may
39 be 20 percent of surcharges of \$1,000 or more. The administrator or
40 his designee may establish a sliding scale, not to exceed a maximum
41 amount of \$200, for surcharge principal amounts of less than \$1,000
42 at the time the certificate of debt is forwarded to the Superior Court
43 for filing. The commission shall provide written notification to a
44 driver of the proposed filing of the certificate of debt at least 10 days
45 prior to the proposed filing; such notice shall be mailed to the driver's
46 last address of record with the commission. If a certificate of debt is

1 satisfied following a credit card payment, debit card payment or
2 payment by other electronic payment device and that payment is
3 reversed, a new certificate of debt shall be filed against the surcharged
4 driver unless the original is reinstated.

5 If the administrator or his designee approves a special payment plan
6 for repayment of the certificate of debt, and the driver is complying
7 with the approved plan, the plan may be continued for any new
8 surcharge not part of the certificate of debt.

9 All moneys collectible under this subsection b. shall be billed and
10 collected by the commission except as provided in P.L.1997, c.280
11 (C.2B:19-10 et al.) for the collection of unpaid surcharges.
12 Commencing on September 1, 1996, or such earlier time as the
13 Commissioner of Banking and Insurance shall certify to the State
14 Treasurer that amounts on deposit in the New Jersey Automobile
15 Insurance Guaranty Fund are sufficient to satisfy the current and
16 anticipated financial obligations of the New Jersey Automobile Full
17 Insurance Underwriting Association, all plan surcharges collected by
18 the commission under this subsection b. shall be remitted to the
19 Division of Motor Vehicles Surcharge Fund for transfer to the Market
20 Transition Facility Revenue Fund, as provided in section 12 of
21 P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of
22 P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market
23 Transition Facility bonds, notes and obligations and all Motor Vehicle
24 Commission bonds, notes and obligations issued pursuant to that
25 section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are
26 discharged and no longer outstanding. From the date of certification
27 by the Commissioner of Banking and Insurance that the moneys
28 collectible under this subsection are no longer needed to fund the
29 association or at such a time as all Market Transition Facility bonds,
30 notes and obligations issued pursuant to section 4 of P.L.1994, c.57
31 (C.34:1B-21.4) and the costs thereof are discharged and no longer
32 outstanding moneys collectible under this subsection shall, subject to
33 appropriation, be remitted to the New Jersey Property-Liability
34 Insurance Guaranty Association created pursuant to section 6 of
35 P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans
36 made by that association to the New Jersey Automobile Insurance
37 Guaranty Fund pursuant to paragraph (10) of subsection a. of section
38 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments
39 shall be subject to and dependent upon appropriation by the State
40 Legislature.

41 (3) In addition to any other authority provided in P.L.1983, c.65
42 (C.17:29A-33 et al.), the commissioner, after consultation with the
43 commission, is specifically authorized (a) (Deleted by amendment,
44 P.L.1994, c.64), (b) to impose, in accordance with paragraph (1)(a) of
45 this subsection, surcharges for motor vehicle violations or convictions
46 for which motor vehicle points are not assessed under Title 39 of the

1 Revised Statutes, or (c) to reduce the number of points for which
2 surcharges may be assessed below the level provided in paragraph
3 (1)(a) of this subsection, except that the dollar amount of all
4 surcharges levied under the New Jersey Merit Rating Plan shall be
5 uniform on a Statewide basis for each filer, without regard to
6 classification or territory. Surcharges adopted by the commissioner on
7 or after January 1, 1984 for motor vehicle violations or convictions for
8 which motor vehicle points are not assessable under Title 39 of the
9 Revised Statutes shall not be retroactively applied but shall take effect
10 on the date of the New Jersey Register in which notice of adoption
11 appears or the effective date set forth in that notice, whichever is later.

12 c. No motor vehicle violation surcharges shall be levied on an
13 automobile insurance policy issued or renewed on or after January 1,
14 1984, except in accordance with the New Jersey Merit Rating Plan,
15 and all surcharges levied thereunder shall be assessed, collected and
16 distributed in accordance with subsection b. of this section.

17 d. (Deleted by amendment, P.L.1990, c.8.)

18 e. The Commissioner of Banking and Insurance and the
19 commission as may be appropriate, shall adopt any rules and
20 regulations necessary or appropriate to effectuate the purposes of this
21 section.

22 (cf: P.L.2003, c.13, s.31)

23

24 6. Section 25 of P.L.1990, c.8 (C.17:33B-13) is amended to read
25 as follows:

26 25. As used in sections 25 through 33 of [this 1990 amendatory
27 and supplementary act] P.L.1990, c.8 (C.17:33B-1 et al.):

28 "Automobile" means an automobile as defined in section 2 of
29 P.L.1972, c.70 (C.39:6A-2).

30 "Automobile insurance" means insurance for an automobile
31 including coverage for bodily injury liability and property damage
32 liability, comprehensive and collision coverages, uninsured and
33 underinsured motorist coverage, personal injury protection coverage,
34 additional personal injury protection coverage and any other
35 automobile insurance required by law.

36 "Commissioner" means the Commissioner of Insurance.

37 "Declination" means:

38 a. Refusal by an insurance agent to submit an application on behalf
39 of an applicant to any of the insurers represented by the agent;

40 b. Refusal by an insurer to issue an automobile insurance policy to
41 an eligible person upon receipt of an application for automobile
42 insurance;

43 c. The offer of automobile insurance coverage with less favorable
44 terms or conditions than those requested by an eligible person; or

45 d. The refusal by an insurer or agent to provide, upon the request
46 of an eligible person, an application form or other means of making an

1 application or request for automobile insurance coverage.

2 "Automobile insurance eligibility points" means points calculated
3 under the schedule promulgated by the commissioner pursuant to
4 section 26 of this act.

5 "Eligible person" means a person who is an owner or registrant of
6 an automobile registered in this State or who holds a valid New Jersey
7 driver's license to operate an automobile, but does not include any
8 person:

9 a. Who, during the three-year period immediately preceding
10 application for, or renewal of, an automobile insurance policy has been
11 convicted pursuant to R.S.39:4-50, section 2 of P.L. _____, c. _____
12 (C. _____)(now pending before the Legislature as this bill), or section 2
13 of P.L.1981, c.512 (C.39:4-50.4a), or for an offense of a substantially
14 similar nature committed in another jurisdiction; has been convicted of
15 a crime of the first, second or third degree resulting from the use of a
16 motor vehicle; or has been convicted of theft of a motor vehicle;

17 b. Whose driver's license to operate an automobile is under
18 suspension or revocation;

19 c. Who has been convicted, within the five-year period immediately
20 preceding application for or renewal of a policy of automobile
21 insurance, of fraud or intent to defraud involving an insurance claim
22 or an application for insurance; or who has been successfully denied,
23 within the immediately preceding five years, payment by an insurer of
24 a claim in excess of \$1,000 under an automobile insurance policy, if
25 there was evidence of fraud or intent to defraud involving the
26 automobile insurance claim or application;

27 d. Whose policy of automobile insurance has been canceled
28 because of nonpayment of premium or financed premium within the
29 immediately preceding two-year period, unless the premium due on a
30 policy for which application has been made is paid in full before
31 issuance or renewal of the policy;

32 e. Who fails to obtain or maintain membership or qualification for
33 membership in a club, group, or organization, if membership is a
34 uniform requirement of the insurer as a condition of providing
35 insurance, and if the dues or charges, if any, or other conditions for
36 membership or qualifications for membership are applied uniformly
37 throughout this State, are not expressed as a percentage of the
38 insurance premium, and do not vary with respect to the rating
39 classification of the member or potential member except for the
40 purpose of offering a membership fee to family units. Membership
41 fees, if applicable, may vary in accordance with the amount or type of
42 coverage if the purchase of additional coverage, either as to type or
43 amount, is not a condition for reduction of dues or fees;

44 f. Whose driving record for the three year period immediately
45 preceding application for or renewal of a policy of automobile
46 insurance has an accumulation of automobile insurance eligibility

1 points as determined under the schedule promulgated by the
2 commissioner pursuant to section 26 of [this act] P.L.1990, c.8
3 (C.17:33B-14); or

4 g. Who possesses such other risk factors as determined to be
5 relevant by rule or regulation of the commissioner.

6 "Insurance agent" or "agent" means an insurance agent as defined
7 by subsection f. of section 2 of P.L.1987, c.293 (C.17:22A-2) and
8 shall also include an insurance broker as defined by subsection g. of
9 section 2 of P.L.1987, c.293 (C.17:22A-2) who has a brokerage
10 relationship with an insurer.

11 "Insurer" means any insurer authorized or admitted to write
12 automobile insurance in this State, but does not include the New
13 Jersey Automobile Full Insurance Underwriting Association created
14 pursuant to sections 13 through 34 of P.L.1983, c.65 (C.17:30E-1 et
15 seq.) or any residual market mechanism implemented pursuant to
16 section 1 of P.L.1970, c.215 (C.17:29D-1).

17 (cf: P.L.1990, c.8, s.25)

18

19 7. Section 2 of P.L.1991, c.452 (C.27:5F-37) is amended to read
20 as follows:

21 2. To qualify for certification as an instructor of the motorcycle
22 safety education course established pursuant to section 1 of P.L.1991,
23 c.452 (C.27:5F-36), a person shall:

24 a. be the holder of a motorcycle operator's license or endorsement
25 issued by any state;

26 b. have at least two years of motorcycle riding experience;

27 c. have no record of a suspension or revocation of his driver's
28 license or motorcycle license or endorsement during the past two
29 years;

30 d. have no convictions for violating the provisions of R.S.39:4-50
31 or section 2 of P.L. , c. (C.) (now pending before the
32 Legislature as this bill) during the past five years;

33 e. have accumulated no more than four points assessed against his
34 driver's license or motorcycle license or endorsement by the director
35 for motor vehicle offenses during the past two years;

36 f. be the holder of a current Motorcycle Safety Foundation
37 certification as a motorcycle instructor; and

38 g. meet such other requirements as the Director of the Office of
39 Highway Traffic Safety may deem appropriate and necessary.

40 Any person who meets the requirements set forth in this section
41 may apply to the Director of the Office of Highway Traffic Safety to
42 be certified as a motorcycle safety education instructor. The
43 application shall be in writing and contain such information as the
44 director shall require. No certification fee shall be charged by the
45 director. A certification so issued shall be valid during such period as
46 the instructor meets the requirements of subsections a. through g. of

1 this section.

2 A person who holds a valid instructor's license issued pursuant to
3 section 5 of P.L.1951, c.216 (C.39:12-5) may apply to the Director of
4 the Division of Motor Vehicles for a motorcycle safety education
5 instructor endorsement as provided for in section 5 of P.L.1951, c.216
6 (C.39:12-5).

7 (cf: P.L.1991, c.452, s.2)

8

9 8. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to read
10 as follows:

11 11. The board may order the payment of compensation in
12 accordance with the provisions of this act for personal injury or death
13 which resulted from:

14 a. an attempt to prevent the commission of crime or to arrest a
15 suspected criminal or in aiding or attempting to aid a police officer so
16 to do, or

17 b. the commission or attempt to commit any of the following
18 offenses:

19 (1) aggravated assault;

20 (2) (Deleted by amendment, P.L.1995, c.135).

21 (3) threats to do bodily harm;

22 (4) lewd, indecent, or obscene acts;

23 (5) indecent acts with children;

24 (6) kidnapping;

25 (7) murder;

26 (8) manslaughter;

27 (9) aggravated sexual assault, sexual assault, aggravated criminal
28 sexual contact, criminal sexual contact;

29 (10) any other crime involving violence including domestic
30 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
31 section 3 of P.L.1991, c.261 (C.2C:25-19);

32 (11) burglary;

33 (12) tampering with a cosmetic, drug or food product; or

34 c. the commission of a violation of R.S.39:4-50, section 2 of
35 P.L. _____, c. _____ (C. _____) (now pending before the Legislature as this
36 bill), section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of
37 P.L.1954, c.236 (C.12:7-34.19) or section 3 of P.L.1952, c.157
38 (C.12:7-46); or

39 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law
40 enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
41 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
42 of N.J.S.2C:20-10 where injuries to the victim occur in the course of
43 operating an automobile in furtherance of the offense.

44 (cf: P.L.1995, c.135, s.4)

45

46 9. R.S.39:3-10 is amended to read as follows:

1 39:3-10. No person shall drive a motor vehicle on a public highway
2 in this State unless the person is under supervision while participating
3 in a behind-the-wheel driving course pursuant to section 6 of
4 P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated
5 permit, or a provisional or basic driver's license issued to him in
6 accordance with this article.

7 No person under 18 years of age shall be issued a basic license to
8 drive motor vehicles, nor shall a person be issued a validated permit,
9 including a validated examination permit, until he has passed a
10 satisfactory examination and other requirements as to his ability as an
11 operator. The examination shall include a test of the applicant's vision,
12 his ability to understand traffic control devices, his knowledge of safe
13 driving practices and of the effects that ingestion of alcohol or drugs
14 has on a person's ability to operate a motor vehicle, his knowledge of
15 such portions of the mechanism of motor vehicles as is necessary to
16 insure the safe operation of a vehicle of the kind or kinds indicated by
17 the applicant and of the laws and ordinary usages of the road. No
18 person shall sit for an examination for any permit without exhibiting
19 photo identification deemed acceptable by the commission, unless that
20 person is a high school student participating in a course of driving
21 education approved by the State Department of Education and
22 conducted in a public, parochial or private school of this State,
23 pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The
24 commission may waive the written law knowledge examination for any
25 person 18 years of age or older possessing a valid driver's license
26 issued by any other state, the District of Columbia or the United States
27 Territories of American Samoa, Guam, Puerto Rico or the Virgin
28 Islands. The commission shall be required to provide that person with
29 a booklet that highlights those motor vehicle laws unique to New
30 Jersey. A road test shall be required for a provisional license and
31 serve as a demonstration of the applicant's ability to operate a vehicle
32 of the class designated. No person shall sit for a road test unless that
33 person exhibits photo identification deemed acceptable by the
34 commission. A high school student who has completed a course of
35 behind-the-wheel automobile driving education approved by the State
36 Department of Education and conducted in a public, parochial or
37 private school of this State, who has been issued a special learner's
38 permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to
39 January 1, 2003, shall not be required to exhibit photo identification
40 in order to sit for a road test. The commission may waive the road
41 test for any person 18 years of age or older possessing a valid driver's
42 license issued by any other state, the District of Columbia or the
43 United States Territories of American Samoa, Guam, Puerto Rico or
44 the Virgin Islands. The road test shall be given on public streets,
45 where practicable and feasible, but may be preceded by an off-street
46 screening process to assess basic skills. The commission shall approve

1 locations for the road test which pose no more than a minimal risk of
2 injury to the applicant, the examiner and other motorists. No new
3 locations for the road test shall be approved unless the test can be
4 given on public streets.

5 The commission shall issue a basic driver's license to operate a
6 motor vehicle other than a motorcycle to a person over 18 years of age
7 who previously has not been licensed to drive a motor vehicle in this
8 State or another jurisdiction only if that person has: (1) operated a
9 passenger automobile in compliance with the requirements of this title
10 for not less than one year, not including any period of suspension or
11 postponement, from the date of issuance of a provisional license
12 pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been
13 assessed more than two motor vehicle points; (3) not been convicted
14 in the previous year for a violation of R.S.39:4-50, section 2 of P.L. ,
15 c. (C.) (now pending before the Legislature as this bill); section 2
16 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189 (C.39:4-50.14),
17 R.S.39:4-129, N.J.S.2C:11-5, subsection c. of N.J.S.2C:12-1, or any
18 other motor vehicle-related violation the commission determines to be
19 significant and applicable pursuant to regulation; and (4) passed an
20 examination of his ability to operate a motor vehicle pursuant to this
21 section.

22 The commission shall expand the driver's license examination by
23 20%. The additional questions to be added shall consist solely of
24 questions developed in conjunction with the State Department of
25 Health and Senior Services concerning the use of alcohol or drugs as
26 related to highway safety. The commission shall develop in
27 conjunction with the State Department of Health and Senior Services
28 supplements to the driver's manual which shall include information
29 necessary to answer any question on the driver's license examination
30 concerning alcohol or drugs as related to highway safety.

31 Up to 20 questions may be added to the examination on subjects to
32 be determined by the commission that are of particular relevance to
33 youthful drivers, after consultation with the Director of the Office of
34 Highway Traffic Safety.

35 The commission shall expand the driver's license examination to
36 include a question asking whether the applicant is aware of the
37 provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161
38 (C.26:6-57 et seq.) and the procedure for indicating on the driver's
39 license the intention to make a donation of body organs or tissues
40 pursuant to P.L.1978, c.181 (C.39:3-12.2).

41 Any person applying for a driver's license to operate a motor
42 vehicle or motorized bicycle in this State shall surrender to the
43 commission any current driver's license issued to him by another state
44 or jurisdiction upon his receipt of a driver's license for this State. The
45 commission shall refuse to issue a driver's license if the applicant fails
46 to comply with this provision. An applicant for a permit or license

1 who is less than 18 years of age, and who holds a permit or license for
2 a passenger automobile issued by another state or country that is valid
3 or has expired within a time period designated by the commission,
4 shall be subject to the permit and license requirements and penalties
5 applicable to State permit and license applicants who are of the same
6 age; except that if the other state or country has permit or license
7 standards substantially similar to those of this State, the credentials of
8 the other state or country shall be acceptable.

9 The commission shall create classified licensing of drivers covering
10 the following classifications:

11 a. Motorcycles, except that for the purposes of this section,
12 motorcycle shall not include any three-wheeled motor vehicle equipped
13 with a single cab with glazing enclosing the occupant, seats similar to
14 those of a passenger vehicle or truck, seat belts and automotive
15 steering.

16 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
17 classified under N.J.S.18A:39-1 et seq.

18 c. (Deleted by amendment, P.L.1999, c.28).

19 d. All motor vehicles not included in classifications a. and b. A
20 license issued pursuant to this classification d. shall be referred to as
21 the "basic driver's license."

22 Every applicant for a license under classification b. shall be a holder
23 of a basic driver's license. Any issuance of a license under
24 classification b. shall be by endorsement on the basic driver's license.

25 A driver's license for motorcycles may be issued separately, but if
26 issued to the holder of a basic driver's license, it shall be by
27 endorsement on the basic driver's license.

28 The commission, upon payment of the lawful fee and after it or a
29 person authorized by it has examined the applicant and is satisfied of
30 the applicant's ability as an operator, may, in its discretion, issue a
31 license to the applicant to drive a motor vehicle. The license shall
32 authorize him to drive any registered vehicle, of the kind or kinds
33 indicated, and shall expire, except as otherwise provided, on the last
34 day of the 48th calendar month following the calendar month in which
35 such license was issued.

36 The commission may, at its discretion and for good cause shown,
37 issue licenses which shall expire on a date fixed by it. If the
38 commission issues a license to a person who has demonstrated
39 authorization to be present in the United States for a period of time
40 shorter than the standard period of the license, the commission shall
41 fix the expiration date of the license at a date based on the period in
42 which the person is authorized to be present in the United States under
43 federal immigration laws. The commission may renew such a license
44 only if it is demonstrated that the person's continued presence in the
45 United States is authorized under federal law. The fee for licenses
46 with expiration dates fixed by the commission shall be fixed by the

1 commission in amounts proportionately less or greater than the fee
2 herein established.

3 The required fee for a license for the 48-month period shall be as
4 follows:

5 Motorcycle license or endorsement: \$18.

6 Omnibus or school bus endorsement: \$18.

7 Basic driver's license: \$18.

8 The commission shall waive the payment of fees for issuance of
9 omnibus endorsements whenever an applicant establishes to the
10 commission's satisfaction that said applicant will use the omnibus
11 endorsement exclusively for operating omnibuses owned by a
12 nonprofit organization duly incorporated under Title 15 or 16 of the
13 Revised Statutes or Title 15A of the New Jersey Statutes.

14 The commission shall issue licenses for the following license period
15 on and after the first day of the calendar month immediately preceding
16 the commencement of such period, such licenses to be effective
17 immediately.

18 All applications for renewals of licenses shall be made in a manner
19 prescribed by the commission and in accordance with procedures
20 established by it.

21 The commission in its discretion may refuse to grant a permit or
22 license to drive motor vehicles to a person who is, in its estimation,
23 not a proper person to be granted such a permit or license, but no
24 defect of the applicant shall debar him from receiving a permit or
25 license unless it can be shown by tests approved by the commission
26 that the defect incapacitates him from safely operating a motor vehicle.

27 In addition to requiring an applicant for a driver's license to submit
28 satisfactory proof of identity and age, the commission also shall
29 require the applicant to provide, as a condition for obtaining a permit
30 and license, satisfactory proof that the applicant's presence in the
31 United States is authorized under federal law.

32 If the commission has reasonable cause to suspect that any
33 document presented by an applicant as proof of identity, age or legal
34 residency is altered, false or otherwise invalid, the commission shall
35 refuse to grant the permit or license until such time as the document
36 may be verified by the issuing agency to the commission's satisfaction.

37 A person violating this section shall be subject to a fine not
38 exceeding \$500 or imprisonment in the county jail for not more than
39 60 days, but if that person has never been licensed to drive in this
40 State or any other jurisdiction, he shall be subject to a fine of not less
41 than \$200 and, in addition, the court shall issue an order to the
42 commission requiring the commission to refuse to issue a license to
43 operate a motor vehicle to the person for a period of not less than 180
44 days. The penalties provided for by this paragraph shall not be
45 applicable in cases where failure to have actual possession of the
46 operator's license is due to an administrative or technical error by the

1 commission.

2 Nothing in this section shall be construed to alter or extend the
3 expiration of any license issued prior to the date this amendatory and
4 supplementary act becomes operative.

5 (cf: P.L.2003, c.13, s.37)

6

7 10. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
8 read as follows:

9 12. a. In addition to any other penalty provided by law, a court
10 shall suspend for not less than one year nor more than three years the
11 commercial motor vehicle driving privilege of a person for a first
12 violation of:

13 (1) R.S.39:4-50 or section 2 of P.L. , c. (C.) (now pending
14 before the Legislature as this bill) if the motor vehicle was a
15 commercial motor vehicle or section 5 of [this act] P.L.1990, c.103
16 (C.39:3-10.13).

17 (2) R.S.39:4-129 if the motor vehicle was a commercial motor
18 vehicle operated by the person.

19 (3) Using a commercial motor vehicle in the commission of any
20 "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

21 (4) Refusal to submit to a chemical test under section 2 of
22 P.L.1966, c.142 (C.39:4-50.2) or section 16 of [this act] P.L.1990,
23 c.103 (C.39:3-10.24) if the motor vehicle was a commercial motor
24 vehicle.

25 (5) Paragraph (1) of subsection b. of section 10 of this act

26 b. If a first violation of any of the violations specified in subsection
27 a. of this section takes place while transporting hazardous material or
28 takes place in a vehicle displaying a hazardous material placard, the
29 court shall suspend the commercial motor vehicle driving privilege of
30 the person for three years.

31 c. Subject to the provisions of subsection d. of this section, the
32 court shall revoke for life the commercial motor vehicle driving
33 privilege of a person for a second or subsequent violation of any of the
34 offenses specified in subsection a. or any combination of those
35 offenses arising from two or more separate incidents.

36 d. The director may issue rules and regulations establishing
37 guidelines, including conditions under which a revocation of
38 commercial motor vehicle driving privilege for life under subsection c.
39 may be reduced to a period of not less than 10 years.

40 e. Notwithstanding any other provision of law to the contrary, a
41 court shall revoke for life the commercial motor vehicle driving
42 privilege of a person who uses a commercial motor vehicle in the
43 commission of a crime involving the manufacture, distribution, or
44 dispensing of a controlled substance or controlled substance analog,
45 or possession with intent to manufacture, distribute, or dispense a
46 controlled substance or controlled substance analog. A revocation

1 under this subsection shall not be subject to reduction in accordance
2 with subsection d. of this section.

3 f. A court shall suspend the commercial motor vehicle driving
4 privilege of a person for a period of not less than 60 days if the person
5 is convicted of a serious traffic violation and that conviction
6 constitutes the second serious traffic violation committed in a
7 commercial motor vehicle in this or any other state arising from
8 separate incidents occurring within a three year period. A court shall
9 suspend the commercial motor vehicle driving privilege for 120 days
10 if the conviction constitutes the third or subsequent serious traffic
11 violation committed in a commercial motor vehicle in this or any other
12 state arising from separate incidents occurring within a three year
13 period.

14 g. After suspending, revoking, or cancelling a commercial motor
15 vehicle driving privilege, a court shall make a report to the director
16 within three days in such form as the director may require. The
17 director shall notify the Commercial Driver License Information
18 System of the suspension, revocation, or cancellation. In the case of
19 non-residents, the director also shall notify the licensing authority of
20 the state which issued the commercial driver license or the state where
21 the person is domiciled. The director shall provide these notices
22 within 10 days after the suspension, revocation, cancellation, or
23 disqualification.

24 h. The director shall in accordance with this section suspend a
25 commercial motor vehicle driving privilege of a person holding, or
26 required to hold, a commercial driver license issued by this State if the
27 person is convicted in another state or foreign jurisdiction of an
28 offense of a substantially similar nature to the offenses specified in
29 subsection a., e., or f. of this section. For purposes of this section, a
30 violation such as driving while intoxicated, driving under the influence,
31 or driving while ability is impaired shall be considered substantially
32 similar offenses. For purposes of this section, a violation committed
33 in another state but substantially similar to those enumerated in
34 subsection a. of this section committed in this State shall be included.

35 i. Notwithstanding any other provision of law to the contrary, a
36 conviction under this section, or section 5 or 16 of this act, shall not
37 merge with a conviction for a violation of R.S.39:4-50, section 2 of
38 P.L. , c. (C.) (now pending before the Legislature as this bill),
39 or section 2 of P.L.1966, c.142 (C.39:4-50.2).
40 (cf: P.L.1990, c.103, s.12)

41

42 11. Section 16 of P.L.1990, c.103 (C.39:3-10.24) is amended to
43 read as follows:

44 16. a. A person who operates a commercial motor vehicle on a
45 public road, street, or highway, or quasi-public area in this State, shall
46 be deemed to have given his consent to the taking of samples of his

1 breath for the purposes of making chemical tests to determine alcohol
2 concentration; provided, however, that the taking of samples shall be
3 made in accordance with the provisions of this act and at the request
4 of a police officer who has reasonable grounds to believe that the
5 person has been operating a commercial motor vehicle with an alcohol
6 concentration of 0.04% or more.

7 b. A record of the taking of such a sample, disclosing the date and
8 time thereof, as well as the result of a chemical test, shall be made and
9 a copy thereof, upon request, shall be furnished or made available to
10 the person so tested.

11 c. In addition to the samples taken and tests made at the direction
12 of a police officer hereunder, the person tested shall be permitted to
13 have such samples taken and chemical tests of his breath, urine, or
14 blood made by a person or physician of his own selection.

15 d. The police officer shall inform the person tested of his rights
16 under subsections b. and c. of this section.

17 e. No chemical test, as provided in this section, or specimen
18 necessary thereto, may be made or taken forcibly and against physical
19 resistance thereto by the defendant. The police officer shall, however,
20 inform the person arrested of the consequences of refusing to submit
21 to such test including the penalties under section 12 of [this act]
22 P.L.1990, c.103 (C.39:3-10.20). A standard statement, prepared by
23 the director, shall be read by the police officer to the person.

24 f. The court shall revoke for six months the right to operate any
25 motor vehicle of any person who, after being arrested for a violation
26 of section 5 of [this act] P.L.1990, c.103 (C.39:3-10.13), shall refuse
27 to submit to the chemical test provided for in this section when
28 requested to do so, unless the refusal was in connection with a
29 subsequent offense under this section, section 5 of [this act]
30 P.L.1990, c.103 (C.39:3-10.13), R.S.39:4-50, section 2 of P.L. ,
31 c. (C.) (now pending before the Legislature as this bill), or
32 section 2 of P.L.1981, c.512 (C.39:4-50.4a), in which case the
33 revocation period shall be for two years. In addition, a court shall
34 impose the penalties provided in section 12 of [this act] P.L.1990,
35 c.103 (C.39:3-10.20).

36 The court shall determine by a preponderance of the evidence
37 whether the arresting officer had probable cause to believe that the
38 person had been operating or was in actual physical control of a
39 commercial motor vehicle on the public highways or quasi-public areas
40 of this State with an alcohol concentration at 0.04% or more, whether
41 the person was placed under arrest, whether he refused to submit to
42 the test upon request of the officer, and if these elements of the
43 violation are not established, no conviction shall issue. In addition to
44 any other requirements provided by law, a person whose driving
45 privilege is revoked for refusing to submit to a chemical test shall
46 satisfy the requirements of a program of alcohol education or

1 rehabilitation pursuant to the provisions of R.S.39:4-50. The
2 revocation shall be independent of any revocation imposed by virtue
3 of a conviction under the provisions of R.S.39:4-50, section 2 of
4 P.L. , c. (C.) (now pending before the Legislature as this bill)
5 or section 12 of this act.

6 In addition to imposing a revocation under this subsection, a court
7 shall impose a fine of not less than \$250 or more than \$500.

8 (cf: P.L.1990, c.103, s.16)

9

10 12. R.S.39:3-13 is amended to read as follows:

11 39:3-13. The director may, in his discretion, issue to a person over
12 17 years of age an examination permit, under the hand and seal of the
13 director, allowing such person, for the purpose of fitting himself to
14 become a licensed driver, to operate a designated class of motor
15 vehicles other than passenger automobiles and motorcycles of persons
16 licensed to operate motorcycles only for a specified period of not more
17 than 90 days, while in the company and under the supervision of a
18 driver licensed to operate such designated class of motor vehicles.

19 The director, in his discretion, may issue for a specified period of
20 not less than one year a passenger automobile or motorcycle-only
21 examination permit to a person over 17 years of age regardless of
22 whether a person has completed a course of behind-the-wheel
23 automobile driving education pursuant to section 1 of P.L.1950, c.127
24 (C.39:3-13.1). An examination permit applicant who is under 18 years
25 of age shall obtain the signature of a parent or guardian for submission
26 to the division on a form prescribed by the director. The director shall
27 postpone for six months the driving privileges of any person who
28 submits a fraudulent signature for a parent or guardian.

29 For six months immediately following the validation of an
30 examination permit, and until the holder passes the road test, the
31 holder who is less than 21 years of age shall operate the passenger
32 automobile or motorcycle only when accompanied by, and under the
33 supervision of, a New Jersey licensed driver who is at least 21 years
34 of age and has been licensed to drive a passenger automobile or
35 motorcycle, as the case may be, for not less than three years. The
36 holder of an examination permit who is at least 21 years of age shall
37 operate the passenger automobile or motorcycle for the first three
38 months under such supervision and until the holder passes the road
39 test. The supervising driver of the passenger automobile shall sit in the
40 front seat of the vehicle. Whenever operating a vehicle while in
41 possession of an examination permit, the holder of the permit shall
42 operate the passenger automobile with only one additional passenger
43 in the vehicle excluding persons with whom the holder resides, except
44 that this passenger restriction shall not apply when either the permit
45 holder or one other passenger is at least 21 years of age. Further, the
46 holder of the permit who is less than 21 years of age shall not drive

1 during the hours between 12:01 a.m. and 5 a.m.; provided, however,
2 that this condition may be waived for an emergency which, in the
3 judgment of local police, is of sufficient severity and magnitude to
4 substantially endanger the health, safety, welfare or property of a
5 person, or for any bona fide employment or religion-related activity if
6 the employer or appropriate religious authority provides written
7 verification of such activity in a manner provided for by the director.
8 The holder of the examination permit shall not use any interactive
9 wireless communication device, except in an emergency, while
10 operating a moving passenger automobile on a public road or highway.
11 "Use" shall include, but not be limited to, talking or listening on any
12 interactive wireless communication device or operating its keys,
13 buttons or other controls. The passenger automobile permit holder
14 shall ensure that all occupants of the vehicle are secured in a properly
15 adjusted and fastened seat belt or child restraint system.

16 When notified by a court of competent jurisdiction that an
17 examination permit holder has been convicted of a violation which
18 causes the permit holder to accumulate more than two motor vehicle
19 points or has been convicted of a violation of R.S.39:4-50; section 2
20 of P.L. , c. (C.) (now pending before the Legislature as this
21 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
22 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
23 N.J.S.2C:12-1 or any other motor vehicle-related law the director
24 deems significant and applicable pursuant to regulation, in addition to
25 any other penalty that may be imposed, the director shall, without the
26 exercise of discretion or a hearing, suspend the examination permit
27 holder's examination permit for 90 days. The director shall restore the
28 permit following the term of the permit suspension if the permit holder
29 satisfactorily completes a remedial training course of not less than four
30 hours which may be given by the division, a drivers' school licensed by
31 the director pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) or
32 any Statewide safety organization approved by the director. The
33 course shall be subject to oversight by the division according to its
34 guidelines. The permit holder shall also remit a course fee prior to the
35 commencement of the course. The director also shall postpone
36 without the exercise of discretion or a hearing the issuance of a basic
37 license for 90 days if the director is notified by a court of competent
38 jurisdiction that the examination permit holder, after completion of the
39 remedial training course, has been convicted of any motor vehicle
40 violation which results in the imposition of any motor vehicle points
41 or has been convicted of a violation of R.S.39:4-50; section 2 of
42 P.L. , c. (C.) (now pending before the Legislature as this bill;
43 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.182
44 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5, subsection c. of
45 N.J.S.2C:12-1 or any other motor vehicle-related law the director
46 deems significant and applicable pursuant to regulation. When the

1 director is notified by a court of competent jurisdiction that an
2 examination permit holder has been convicted of any alcohol or
3 drug-related offense unrelated to the operation of a motor vehicle and
4 is not otherwise subject to any other suspension penalty therefor, the
5 director shall, without the exercise of discretion or a hearing, suspend
6 the examination permit for six months.

7 An examination permit for a motorcycle or a commercial motor
8 vehicle issued to a handicapped person, as determined by the Division
9 of Motor Vehicles after consultation with the Department of
10 Education, shall be valid for nine months or until the completion of the
11 road test portion of his license examination, whichever period is
12 shorter.

13 Each permit shall be sufficient license for the person to operate
14 such designated class of motor vehicles in this State during the period
15 specified, while in the company of and under the control of a driver
16 licensed by this State to operate such designated class of motor
17 vehicles, or, in the case of a commercial driver license permit, while in
18 the company of and under the control of a holder of a valid
19 commercial driver license for the appropriate license class and with the
20 appropriate endorsements issued by this or any other state. Such
21 person, as well as the licensed driver, except for a motor vehicle
22 examiner administering a driving skills test, shall be held accountable
23 for all violations of this subtitle committed by such person while in the
24 presence of the licensed driver. In addition to requiring an applicant
25 for an examination permit to submit satisfactory proof of identity and
26 age, the director also shall require the applicant to provide, as a
27 condition for obtaining the permit, satisfactory proof that the
28 applicant's presence in the United States is authorized under federal
29 law. If the director has reasonable cause to suspect that any document
30 presented by an applicant as proof of identity, age or legal residency
31 is altered, false or otherwise invalid, the director shall refuse to grant
32 the permit until such time as the document may be verified by the
33 issuing agency to the director's satisfaction.

34 The holder of an examination permit shall be required to take a road
35 test in order to obtain a provisional license. No road test for any
36 person who has been issued an examination permit to operate a
37 passenger vehicle shall be given unless the person has met the
38 requirements of this section. No road test for a provisional license
39 shall be given unless the applicant has first secured an examination
40 permit and no such road test shall be scheduled for an applicant who
41 has secured an examination permit for a passenger vehicle or a
42 motorcycle for which an endorsement is not required until at least six
43 months for an applicant under 21 years of age or three months for an
44 applicant 21 years of age or older shall have elapsed following the
45 validation of the examination permit for practice driving or, in the case
46 of an examination permit for other vehicles, until 20 days have

1 elapsed. In the case of an omnibus endorsement or school bus, no
2 road test shall be scheduled until at least 10 days shall have elapsed.
3 Every applicant for an examination permit to qualify for an omnibus
4 endorsement or an articulated vehicle endorsement shall be a holder of
5 a valid basic driver's license.

6 The required fees for special learners' permits and examination
7 permits shall be as follows:

8 Basic driver's license.....	up to \$10
9 Motorcycle license or endorsement.....	\$ 5
10 Omnibus or school bus endorsement.....	\$25
11 Articulated vehicle endorsement.....	\$15

12 The director shall waive the payment of fees for issuance of
13 examination permits for omnibus endorsements whenever the applicant
14 establishes to the director's satisfaction that said applicant will use the
15 omnibus endorsement exclusively for operating omnibuses owned by
16 a nonprofit organization duly incorporated under Title 15 or 16 of the
17 Revised Statutes or Title 15A of the New Jersey Statutes.

18 The specified period for which a permit is issued may be extended
19 for not more than an additional 60 days, without payment of added
20 fee, upon application made by the holder thereof, where the holder has
21 applied to take the examination for a driver's license prior to the
22 expiration of the original period for which the permit was issued and
23 the director was unable to schedule an examination during said period.
24 (cf: P.L.2001, c.420, s.6.)

25
26 13. Section 6 of P.L.1977, c.25 (C.39:3-13.2a) is amended to read
27 as follows:

28 6. a. Any person to whom a special learner's permit has been
29 issued pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1), upon
30 successful completion of a State approved written examination, eye
31 examination and an approved minimum six-hour behind-the-wheel
32 driving course, shall be entitled to retain the special learner's permit in
33 his own possession. The special learner's permit shall be validated by
34 the division for the purpose of driving a motor vehicle on a public
35 highway in this State after the holder has successfully met the
36 necessary examination requirements, and upon the successful
37 completion of a behind-the-wheel driving course. Such person may
38 operate a motor vehicle of the class for which a basic driver's license
39 is required except during the hours between 11:01 p.m. and 5:00 a.m.
40 while in the company and under the supervision, from the front
41 passenger seat, of a licensed motor vehicle driver of this State who is
42 over 21 years of age and has been licensed to drive a passenger
43 automobile for at least three years. Such special permit shall be valid
44 until such person's seventeenth birthday or until he qualifies for a
45 provisional license. Except during an instructional period of a
46 behind-the-wheel driving course, the holder of a special permit shall

1 operate a passenger automobile with only the following passengers:
2 (1) the supervising passenger; (2) persons who share the permit
3 holder's residence; and (3) one additional passenger who does not
4 reside with the permit holder. The holder of the special learner's
5 permit shall not use any interactive wireless communication device,
6 except in an emergency, while operating a moving passenger
7 automobile on a public road or highway. "Use" shall include, but not
8 be limited to, talking or listening on any interactive wireless
9 communication device or operating its keys, buttons or other controls.
10 All occupants of the automobile shall be secured in a properly adjusted
11 and fastened seat belt or child restraint system.

12 b. When notified by a court of competent jurisdiction that a special
13 learner's permit holder has been convicted of a violation which causes
14 the permit holder to accumulate more than two motor vehicle points
15 or has been convicted of a violation of R.S.39:4-50; section 2 of
16 P.L. _____, c. (C. _____) (now pending before the Legislature as this bill);
17 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
18 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
19 N.J.S.2C:12-1 or any other motor vehicle-related law the director
20 determines to be significant and applicable pursuant to regulation, and
21 in addition to any other penalty that may be imposed, the director
22 shall, without the exercise of discretion or a hearing, suspend the
23 holder's special learner's permit for 90 days. The director shall restore
24 the permit following the term of the permit suspension if the permit
25 holder, regardless of age, satisfactorily completes a remedial training
26 course of not less than four hours which may be given by the division,
27 a drivers' school licensed by the director pursuant to section 2 of
28 P.L.1951, c.216 (C.39:12-2) or any statewide safety organization
29 approved by the director. The course shall be administered pursuant
30 to rules and regulations promulgated by the director and subject to
31 oversight by the division. The authority of the director to suspend,
32 revoke or deny issuance of an initial or renewal license to operate a
33 drivers' school or an instructor's license, and to assess fines, pursuant
34 to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations
35 related to the administration of a remedial training course. The permit
36 holder shall also remit a course fee prior to the commencement of the
37 course. If, after completion of the remedial training course, the
38 director is notified by a court of competent jurisdiction that the special
39 learner's permit holder has been convicted of any motor vehicle
40 violation which results in the imposition of any motor vehicle points
41 or has been convicted of a violation of R.S.39:4-50; section 2 of
42 P.L. _____, c. (C. _____) (now pending before the Legislature as this
43 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
44 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
45 N.J.S.2C:12-1 or any other motor vehicle-related law the director
46 deems significant and applicable pursuant to regulation, the director,

1 without the exercise of discretion or a hearing, shall also postpone the
2 issuance of a basic license for 90 days. When the director is notified
3 by a court of competent jurisdiction that a special learner's permit
4 holder has been convicted of any alcohol or drug-related offense
5 unrelated to the operation of a motor vehicle and he is not otherwise
6 subject to any other suspension penalty therefor, the director shall,
7 without the exercise of discretion or a hearing, suspend the special
8 learner's permit for six months.
9 (cf: P.L.2001, c.420, s.7)

10

11 14. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to read
12 as follows:

13 4. The holder of a special learner's permit shall be entitled to a
14 provisional driver's license (1) upon attaining the age of 17 years, (2)
15 upon the satisfactory completion of an approved behind-the-wheel
16 automobile driving education course as indicated upon the face of the
17 special permit over the signature of the principal of the school or the
18 person operating the drivers' school in which the course was
19 conducted,(3) upon the completion of six months' driving experience
20 with a validated special learner's permit in compliance with the
21 provisions of section 6 of P.L.1977, c.25 (C.39:3-13.2a) and (4) upon
22 passing the road test pursuant to R.S.39:3-10.

23 The holder of a provisional license shall be permitted to operate the
24 passenger automobile with only one additional passenger in the vehicle
25 besides persons with whom the holder resides, except that this
26 passenger restriction shall not apply when either the holder of the
27 provisional license or one other passenger is at least 21 years of age.
28 Further, the holder of the provisional license who is under 21 years of
29 age shall not drive during the hours between 12:01 a.m. and 5 a.m.;
30 provided however, that this condition may be waived for an emergency
31 which, in the judgment of local police, is of sufficient severity and
32 magnitude to substantially endanger the health, safety, welfare or
33 property of a person or for any bona fide employment or
34 religion-related activity if the employer or appropriate religious
35 authority provides written verification of such activity in a manner
36 provided for by the director. The holder of the provisional license
37 shall not use any interactive wireless communication device, except in
38 an emergency, while operating a moving passenger automobile on a
39 public road or highway. "Use" shall include, but not be limited to,
40 talking or listening on any interactive wireless communication device
41 or operating its keys, buttons or other controls. In addition, the holder
42 of the provisional license shall ensure that all occupants of the vehicle
43 are secured in a properly adjusted and fastened seat belt or child
44 restraint system. In addition to any other penalties provided under
45 law, the holder of a provisional license who accumulates more than
46 two motor vehicle points or is convicted of a violation of R.S.39:4-50;

1 section 2 of P.L. , c. (C.) (now pending before the Legislature
2 as this bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992,
3 c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
4 N.J.S.2C:12-1 or any other motor vehicle law the director deems to be
5 significant and applicable pursuant to regulation shall, for the first
6 violation, be required to satisfactorily complete a remedial training
7 course of not less than four hours which may be given by the division,
8 a drivers' school licensed by the director pursuant to section 2 of
9 P.L.1951, c.216 (C.39:12-2) or any Statewide safety organization
10 approved by the director. The course shall be administered pursuant
11 to rules and regulations promulgated by the director and subject to
12 oversight by the division. The authority of the director to suspend,
13 revoke or deny issuance of an initial or renewal license to operate a
14 drivers' school or an instructor's license, and to assess fines, pursuant
15 to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations
16 related to the administration of a remedial training course. The permit
17 holder shall also remit a course fee prior to the commencement of the
18 course. When notified by a court of competent jurisdiction that a
19 provisional license holder has been convicted of a second or
20 subsequent violation, in addition to any other penalties provided under
21 law, the director shall, without the exercise of discretion or a hearing,
22 suspend the provisional license for three months and shall postpone
23 eligibility for a basic license for an equivalent period. In addition,
24 when the director is notified by a court of competent jurisdiction that
25 a provisional license holder has been convicted of any alcohol or
26 drug-related offense unrelated to the operation of a motor vehicle, and
27 he is not otherwise subject to any other suspension penalty therefor,
28 the director shall, without the exercise of discretion or a hearing,
29 suspend the provisional license for six months.

30 A provisional license may be sent by mail and shall be clearly
31 identifiable and distinguishable in appearance from a basic license by
32 any name, mark, color or device deemed appropriate by the director.
33 (cf: P.L.2001, c.420, s.8)

34

35 15. Section 3 of P.L.1959, c.56 (C.39:3-33.5) is amended to read
36 as follows:

37 3. Except as provided for courtesy marks in section 2 of P.L.2000,
38 c.15 (C.39:3-33.5a), no particular identifying mark or special
39 organization license plate issued pursuant to P.L.1987, c.374
40 (C.39:3-27.35) may be issued to any applicant who:

41 (a) for the 10-year period next preceding the date of application for
42 a particular identifying mark or special organization license plate has
43 been convicted of a violation of [either section] R.S.39:4-50, section
44 2 of P.L. , c. (C.) (now pending before the Legislature as this
45 bill), [or section] R.S.39:4-96 [of this Title;], or section 2 of
46 P.L.1966, c.142 (C.39:4-50.2) or has been convicted of a violation of

1 a law of a substantially similar nature in another jurisdiction; or
2 (b) has been convicted of a violation of N.J.S.2C:11-5; or
3 (c) for the two-year period next preceding his application for a
4 particular identifying mark or a special organization license plate has
5 had his driving privileges in this State or in another jurisdiction
6 revoked or suspended for any reason whatsoever.
7 (cf: P.L.2000, c.15, s.1)

8

9 16. R.S.39:3-40 is amended to read as follows:

10 39:3-40. No person to whom a driver's license has been refused or
11 whose driver's license or reciprocity privilege has been suspended or
12 revoked, or who has been prohibited from obtaining a driver's license,
13 shall personally operate a motor vehicle during the period of refusal,
14 suspension, revocation, or prohibition.

15 No person whose motor vehicle registration has been revoked shall
16 operate or permit the operation of such motor vehicle during the
17 period of such revocation.

18 Except as provided in subsections i. and j. of this section, a person
19 violating this section shall be subject to the following penalties:

20 a. Upon conviction for a first offense, a fine of \$500.00 and, if that
21 offense involves the operation of a motor vehicle during a period when
22 the violator's driver's license is suspended for a violation of
23 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before the
24 Legislature as this bill or section 2 of P.L.1981, c.512 (C.39:4-50.4a),
25 revocation of the violator's motor vehicle registration privilege in
26 accordance with the provisions of sections 2 through 6 of P.L.1995,
27 c.286 (C.39:3-40.1 through C.39:3-40.5);

28 b. Upon conviction for a second offense, a fine of \$750.00,
29 imprisonment in the county jail for not more than five days and, if the
30 second offense involves the operation of a motor vehicle during a
31 period when the violator's driver's license is suspended and that second
32 offense occurs within five years of a conviction for that same offense,
33 revocation of the violator's motor vehicle registration privilege in
34 accordance with the provisions of sections 2 through 6 of P.L.1995,
35 c.286 (C.39:3-40.1 through C.39:3-40.5);

36 c. Upon conviction for a third offense or subsequent offense, a fine
37 of \$1,000.00, imprisonment in the county jail for 10 days. If the third
38 or a subsequent offense involves the operation of a motor vehicle
39 during a period when the violator's driver's license is suspended and
40 the third or subsequent offense occurs within five years of a conviction
41 for the same offense, revocation of the violator's motor vehicle
42 registration privilege shall be revoked in accordance with the
43 provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1
44 through C.39:3-40.5);

45 d. Upon conviction, the court shall impose or extend a period of
46 suspension not to exceed six months;

1 e. Upon conviction, the court shall impose a period of
2 imprisonment for not less than 45 days or more than 180 days, if while
3 operating a vehicle in violation of this section a person is involved in
4 an accident resulting in bodily injury to another person;

5 f. (1) Notwithstanding subsections a. through e., any person
6 violating this section while under suspension issued pursuant to section
7 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
8 \$500.00, shall have his license to operate a motor vehicle suspended
9 for an additional period of not less than one year nor more than two
10 years, and may be imprisoned in the county jail for not more than 90
11 days.

12 (2) Notwithstanding the provisions of subsections a. through e. of
13 this section and paragraph (1) of this subsection, any person violating
14 this section under suspension issued pursuant to R.S.39:4-50, section
15 2 of P.L. , c. (C.) (now pending before the Legislature as this bill,
16 section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85
17 (C.39:5-30a et seq.), shall be fined \$500, shall have his license to
18 operate a motor vehicle suspended for an additional period of not less
19 than one year or more than two years, and shall be imprisoned in the
20 county jail for not less than 10 days or more than 90 days.

21 (3) Notwithstanding the provisions of subsections a. through e. of
22 this section and paragraphs (1) and (2) of this subsection, a person
23 shall have his license to operate a motor vehicle suspended for an
24 additional period of not less than one year or more than two years,
25 which period shall commence upon the completion of any prison
26 sentence imposed upon that person, shall be fined \$500 and shall be
27 imprisoned for a period of 60 to 90 days for a first offense, imprisoned
28 for a period of 120 to 150 days for a second offense, and imprisoned
29 for 180 days for a third or subsequent offense, for operating a motor
30 vehicle while in violation of paragraph (2) of this subsection while:

31 (a) on any school property used for school purposes which is
32 owned by or leased to any elementary or secondary school or school
33 board, or within 1,000 feet of such school property;

34 (b) driving through a school crossing as defined in R.S.39:1-1 if
35 the municipality, by ordinance or resolution, has designated the school
36 crossing as such; or

37 (c) driving through a school crossing as defined in R.S.39:1-1
38 knowing that juveniles are present if the municipality has not
39 designated the school crossing as such by ordinance or resolution.

40 A map or true copy of a map depicting the location and boundaries
41 of the area on or within 1,000 feet of any property used for school
42 purposes which is owned by or leased to any elementary or secondary
43 school or school board produced pursuant to section 1 of P.L.1987,
44 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
45 (a) of this paragraph.

46 It shall not be relevant to the imposition of sentence pursuant to

1 subparagraph (a) or (b) of this paragraph that the defendant was
2 unaware that the prohibited conduct took place while on or within
3 1,000 feet of any school property or while driving through a school
4 crossing. Nor shall it be relevant to the imposition of sentence that no
5 juveniles were present on the school property or crossing zone at the
6 time of the offense or that the school was not in session;

7 g. In addition to the other applicable penalties provided under this
8 section, a person violating this section whose license has been
9 suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or
10 the regulations adopted thereunder, shall be fined \$3,000. The court
11 shall waive the fine upon proof that the person has paid the total
12 surcharge imposed pursuant to section 6 of P.L.1983, c.65
13 (C.17:29A-35) or the regulations adopted thereunder.
14 Notwithstanding the provisions of R.S.39:5-41, the fine imposed
15 pursuant to this subsection shall be collected by the Division of Motor
16 Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and
17 distributed as provided in that section, and the court shall file a copy
18 of the judgment of conviction with the director and with the Clerk of
19 the Superior Court who shall enter the following information upon the
20 record of docketed judgments: the name of the person as judgment
21 debtor; the Division of Motor Vehicles as judgment creditor; the
22 amount of the fine; and the date of the order. These entries shall have
23 the same force and effect as any civil judgment docketed in the
24 Superior Court;

25 h. A person who owns or leases a motor vehicle and permits
26 another to operate the motor vehicle commits a violation and is subject
27 to suspension of his license to operate a motor vehicle and to
28 revocation of registration pursuant to sections 2 through 6 of
29 P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

30 (1) Knows that the operator's license to operate a motor vehicle
31 has been suspended for a violation of R.S.39:4-50, section 2 of P.L. ,
32 c. (C.) (now pending before the Legislature as this bill or section
33 2 of P.L.1981, c.512 (C.39:4-50.4a); or

34 (2) Knows that the operator's license to operate a motor vehicle is
35 suspended and that the operator has been convicted, within the past
36 five years, of operating a vehicle while the person's license was
37 suspended or revoked;

38 i. If the violator's driver's license to operate a motor vehicle has
39 been suspended pursuant to section 9 of P.L.1985, c.14
40 (C.39:4-139.10), the violator shall be subject to a maximum fine of
41 \$100 upon proof that the violator has satisfied the parking ticket or
42 tickets that were the subject of the Order of Suspension;

43 j. If a person is convicted for a second or subsequent violation of
44 this section and the second or subsequent offense involves a motor
45 vehicle moving violation, the term of imprisonment for the second or
46 subsequent offense shall be 10 days longer than the term of

1 imprisonment imposed for the previous offense.

2 For the purposes of this subsection, a "motor vehicle moving
3 violation" means any violation of the motor vehicle laws of this State
4 for which motor vehicle points are assessed by the Director of the
5 Division of Motor Vehicles pursuant to section 1 of P.L.1982, c.43
6 (C.39:5-30.5).

7 (cf: P.L.2002, c.28, c.1)

8

9 17. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
10 as follows:

11 2. a. Any motor vehicle registration certificate and registration
12 plates shall be revoked if a person is convicted of violating the
13 provisions of:

14 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
15 during a period when that violator's driver's license has been
16 suspended for a violation of R.S.39:4-50 or section 2 of P.L. , c.
17 (C.) (now pending before the Legislature as this bill);

18 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
19 during a period when that violator's driver's license has been
20 suspended within a five-year period; or

21 (3) R.S.39:4-50 for a second **[or subsequent]** offense or section
22 2 of P.L. , c. (C.) (now pending before the Legislature as this
23 bill), if such revocation is ordered by the court as authorized under
24 **[that section]** those sections.

25 This revocation of registration certificate and registration plates
26 shall apply to all passenger automobiles and motorcycles owned or
27 leased by the violator and registered under the provisions of
28 R.S.39:3-4 and all noncommercial trucks owned or leased by the
29 violator and registered under the provisions of section 2 of P.L.1968,
30 c.439 (C.39:3-8.1), including those passenger automobiles,
31 motorcycles and noncommercial trucks registered or leased jointly in
32 the name of the violator and the other owner of record.

33 b. At the time of conviction, the court shall notify each violator
34 that the person's passenger automobile, motorcycle, and
35 noncommercial truck registrations are revoked. Notwithstanding the
36 provisions of R.S.39:5-35, the violator shall surrender the registration
37 certificate and registration plates of all passenger automobiles,
38 motorcycles, and noncommercial truck registrations subject to
39 revocation under the provisions of this section within 48 hours of the
40 court's notice. The surrender shall be at a place and in a manner
41 prescribed by the Director of the Division of Motor Vehicles pursuant
42 to rule and regulation. The court also shall notify the violator that a
43 failure to surrender that vehicle registration certificate and registration
44 plates shall result in the impoundment of the vehicle in accordance
45 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
46 the seizure of said registration certificate and registration plates. The

1 revocation authorized under the provisions of this subsection shall
2 remain in effect for the period during which the violator's license to
3 operate a motor vehicle is suspended and shall be enforced so as to
4 prohibit the violator from registering or leasing any other vehicle,
5 however acquired, during that period.

6 c. If the violator subject to the penalties set forth in subsections a.
7 and b. of this section for conviction of violating the provisions of
8 R.S.39:3-40 was operating a motor vehicle owned or leased by
9 another person and that other owner or lessee permitted that operation
10 with knowledge that the violator's driver's license was suspended, the
11 court shall suspend the person's license to operate a motor vehicle and
12 revoke the registration certificate and registration plates for that
13 vehicle for a period of not more than six months. Notwithstanding the
14 provisions of R.S.39:3-35, the owner or lessee shall surrender the
15 registration certificate and registration plates of that vehicle within 48
16 hours of the court's notice of revocation. The surrender shall be at a
17 place and in a manner prescribed by the Director of the Division of
18 Motor Vehicles pursuant to rule and regulation. The court also shall
19 notify the owner or lessee that a failure to surrender the revoked
20 registration certificate and registration plates shall result in the
21 impoundment of the vehicle in accordance with the provisions of
22 section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said
23 registration certificate and registration plates. Nothing in this
24 subsection shall be construed to limit the court from finding that
25 owner or lessee guilty of violating R.S.39:3-39 or any other such
26 statute concerning the operation of a motor vehicle by an unlicensed
27 driver.

28 (cf: P.L.2000, c.83, s.2)

29

30 18. Section 1 of P.L.1938, c.360 (C.39:4-9.1) is amended to read
31 as follows:

32 1. Whenever another State shall have enacted a law providing for
33 reciprocal exchange thereof, the director, upon receiving a certificate
34 of conviction of a nonresident operator or chauffeur of a violation of
35 the provisions of [sections] R.S.39:4-50, section 2 of P.L. , c.
36 (C.) (now pending before the Legislature as this bill), R.S.39:4-96,
37 R.S.39:4-98 [and] or R.S.39:4-129 [of the Revised Statutes], or of
38 notice of the forfeiture of any bond or collateral given for such
39 violation, shall transmit forthwith, a certified copy of such record to
40 the motor vehicle administrator of the State wherein the person
41 named in such record shall reside.

42 (cf: P.L.1951, c.23, s.10)

43

44 19. Section 1 of P.L.1981, c.97 (C.39:4-14.3g) is amended to read
45 as follows:

46 1. It is unlawful for any person to operate a motorized bicycle

1 while under the influence of intoxicating liquor, or a narcotic,
2 hallucinogenic or habit-producing drug. Any person who violates the
3 provisions of this act shall be subject to the same penalties as
4 provided in R.S.39:4-50 and section 2 of P.L. , c. (C.) (now
5 pending before the Legislature as this bill) for conviction of operating
6 a motor vehicle while under the influence of any such substance. In
7 any prosecution for a violation of this act, the [presumptions,
8 consent and procedures set forth in P.L.1951, c.23, s.30 (C.39:4-50.1)
9 [and], sections 2 through 5 of P.L.1966, c.142[, ss.2-5] (C.39:4-50.2
10 to 39:4-50.5) and section 2 of P.L.1981, c.512 (C.39:4-50.4a) shall be
11 applicable.

12 (cf: P.L.1981, c.97, s.1)

13

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

15 39:4-50. (a) Except as provided in subsection (g) of this section,
16 a person who operates a motor vehicle while under the influence of
17 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,
18 or operates a motor vehicle with a blood alcohol concentration of
19 0.10% or more by weight of alcohol in the defendant's blood or
20 permits another person who is under the influence of intoxicating
21 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
22 motor vehicle owned by him or in his custody or control or permits
23 another to operate a motor vehicle with a blood alcohol concentration
24 of 0.10% or more by weight of alcohol in the defendant's blood shall
25 be subject:

26 (1) For the first offense, to a fine of not less than \$250.00 nor
27 more than \$400.00 and a period of detainment of not less than 12
28 hours nor more than 48 hours spent during two consecutive days of
29 not less than six hours each day and served as prescribed by the
30 program requirements of the Intoxicated Driver Resource Centers
31 established under subsection (f) of this section and, in the discretion
32 of the court, a term of imprisonment of not more than 30 days and
33 shall forthwith forfeit his right to operate a motor vehicle over the
34 highways of this State for a period of not less than six months nor
35 more than one year. For a first offense, a person also shall be subject
36 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

37 (2) For a second violation, a person shall be subject to a fine of not
38 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
39 the court to perform community service for a period of 30 days, which
40 shall be of such form and on such terms as the court shall deem
41 appropriate under the circumstances, and shall be sentenced to
42 imprisonment for a term of not less than 48 consecutive hours, which
43 shall not be suspended or served on probation, nor more than 90 days,
44 and shall forfeit his right to operate a motor vehicle over the highways
45 of this State for a period of two years upon conviction, and, after the
46 expiration of said period, he may make application to the Director of

1 the Division of Motor Vehicles for a license to operate a motor
2 vehicle, which application may be granted at the discretion of the
3 director, consistent with subsection (b) of this section. For a second
4 violation, a person also shall be required to install an ignition interlock
5 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
6 or shall have his registration certificate and registration plates revoked
7 for two years under the provisions of section 2 of P.L.1995, c.286
8 (C.39:3-40.1).

9 [(3) For a third or subsequent violation, a person shall be subject
10 to a fine of \$1,000.00, and shall be sentenced to imprisonment for a
11 term of not less than 180 days, except that the court may lower such
12 term for each day, not exceeding 90 days, served performing
13 community service in such form and on such terms as the court shall
14 deem appropriate under the circumstances and shall thereafter forfeit
15 his right to operate a motor vehicle over the highways of this State for
16 10 years.] For a third or subsequent violation, a person shall be
17 subject to the penalties set forth in section 2 of P.L. , c. (C.) (now
18 pending before the Legislature as this bill and also shall be required to
19 install an ignition interlock device under the provisions of P.L.1999,
20 c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and
21 registration plates revoked for 10 years under the provisions of section
22 2 of P.L.1995, c.286 (C.39:3-40.1).

23 As used in this section, the phrase "narcotic, hallucinogenic or
24 habit-producing drug" includes an inhalant or other substance
25 containing a chemical capable of releasing any toxic vapors or fumes
26 for the purpose of inducing a condition of intoxication, such as any
27 glue, cement or any other substance containing one or more of the
28 following chemical compounds: acetone and acetate, amyl nitrite or
29 amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite,
30 butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite
31 or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl
32 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl
33 alcohol, pentachlorophenol, petroleum ether, propyl nitrate or propyl
34 nitrate or their isomers, toluene, toluol or xylene or any other chemical
35 substance capable of causing a condition of intoxication, inebriation,
36 excitement, stupefaction or the dulling of the brain or nervous system
37 as a result of the inhalation of the fumes or vapors of such chemical
38 substance.

39 Whenever an operator of a motor vehicle has been involved in an
40 accident resulting in death, bodily injury or property damage, a police
41 officer shall consider that fact along with all other facts and
42 circumstances in determining whether there are reasonable grounds to
43 believe that person was operating a motor vehicle in violation of this
44 section.

45 A conviction of a violation of a law of a substantially similar nature
46 in another jurisdiction, regardless of whether that jurisdiction is a

1 signatory to the Interstate Driver License Compact pursuant to
2 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction
3 under this subsection unless the defendant can demonstrate by clear
4 and convincing evidence that the conviction in the other jurisdiction
5 was based exclusively upon a violation of a proscribed blood alcohol
6 concentration of less than 0.10%.

7 If the driving privilege of any person is under revocation or
8 suspension for a violation of any provision of this Title or Title 2C of
9 the New Jersey Statutes at the time of any conviction for a violation
10 of this section, the revocation or suspension period imposed shall
11 commence as of the date of termination of the existing revocation or
12 suspension period. In the case of any person who at the time of the
13 imposition of sentence is less than 17 years of age, the forfeiture,
14 suspension or revocation of the driving privilege imposed by the court
15 under this section shall commence immediately, run through the
16 offender's seventeenth birthday and continue from that date for the
17 period set by the court pursuant to paragraphs (1) ~~through (3)~~ or (2)
18 of this subsection. A court that imposes a term of imprisonment under
19 this section may sentence the person so convicted to the county jail,
20 to the workhouse of the county wherein the offense was committed,
21 to an inpatient rehabilitation program or to an Intoxicated Driver
22 Resource Center or other facility approved by the chief of the
23 Intoxicated Driving Program Unit in the Department of Health and
24 Senior Services; provided that for a third or subsequent offense a
25 person shall not serve a term of imprisonment at an Intoxicated Driver
26 Resource Center as provided in subsection (f).

27 A person who has been convicted of a previous violation of this
28 section need not be charged as a second or subsequent offender in the
29 complaint made against him in order to render him liable to the
30 punishment imposed by this section on a second or subsequent
31 offender, but if the second offense occurs more than 10 years after the
32 first offense, the court shall treat the second conviction as a first
33 offense for sentencing purposes ~~[and if a third offense occurs more~~
34 ~~than 10 years after the second offense, the court shall treat the third~~
35 ~~conviction as a second offense for sentencing purposes]~~.

36 (b) A person convicted under this section must satisfy the
37 screening, evaluation, referral, program and fee requirements of the
38 Division of Alcoholism and Drug Abuse's Intoxicated Driving Program
39 Unit, and of the Intoxicated Driver Resource Centers and a program
40 of alcohol and drug education and highway safety, as prescribed by the
41 Director of the Division of Motor Vehicles. The sentencing court shall
42 inform the person convicted that failure to satisfy such requirements
43 shall result in a mandatory two-day term of imprisonment in a county
44 jail and a driver license revocation or suspension and continuation of
45 revocation or suspension until such requirements are satisfied, unless
46 stayed by court order in accordance with the Rules Governing the

1 Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing,
2 the court shall forward to the Division of Alcoholism and Drug
3 Abuse's Intoxicated Driving Program Unit a copy of a person's
4 conviction record. A fee of \$100.00 shall be payable to the Alcohol
5 Education, Rehabilitation and Enforcement Fund established pursuant
6 to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
7 Intoxicated Driving Program Unit.

8 (c) Upon conviction of a violation of this section, the court shall
9 collect forthwith the New Jersey driver's license or licenses of the
10 person so convicted and forward such license or licenses to the
11 Director of the Division of Motor Vehicles. The court shall inform the
12 person convicted that if he is convicted of personally operating a
13 motor vehicle during the period of license suspension imposed
14 pursuant to subsection (a) of this section, he shall, upon conviction, be
15 subject to the penalties established in R.S.39:3-40. The person
16 convicted shall be informed orally and in writing. A person shall be
17 required to acknowledge receipt of that written notice in writing.
18 Failure to receive a written notice or failure to acknowledge in writing
19 the receipt of a written notice shall not be a defense to a subsequent
20 charge of a violation of R.S.39:3-40. In the event that a person
21 convicted under this section is the holder of any out-of-State driver's
22 license, the court shall not collect the license but shall notify forthwith
23 the director, who shall, in turn, notify appropriate officials in the
24 licensing jurisdiction. The court shall, however, revoke the
25 nonresident's driving privilege to operate a motor vehicle in this State,
26 in accordance with this section. Upon conviction of a violation of this
27 section, the court shall notify the person convicted, orally and in
28 writing, of the penalties for a second, third or subsequent violation of
29 this section. A person shall be required to acknowledge receipt of that
30 written notice in writing. Failure to receive a written notice or failure
31 to acknowledge in writing the receipt of a written notice shall not be
32 a defense to a subsequent charge of a violation of this section.

33 (d) The Director of the Division of Motor Vehicles shall
34 promulgate rules and regulations pursuant to the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to
36 establish a program of alcohol education and highway safety, as
37 prescribed by this act.

38 (e) Any person accused of a violation of this section who is liable
39 to punishment imposed by this section as a second [or subsequent]
40 offender shall be entitled to the same rights of discovery as allowed
41 defendants pursuant to the Rules Governing the Courts of the State of
42 New Jersey.

43 (f) The counties, in cooperation with the Division of Alcoholism
44 and Drug Abuse and the Division of Motor Vehicles, but subject to the
45 approval of the Division of Alcoholism and Drug Abuse, shall
46 designate and establish on a county or regional basis Intoxicated

1 Driver Resource Centers. These centers shall have the capability of
2 serving as community treatment referral centers and as court monitors
3 of a person's compliance with the ordered treatment, service
4 alternative or community service. All centers established pursuant to
5 this subsection shall be administered by a counselor certified by the
6 Alcohol and Drug Counselor Certification Board of New Jersey or
7 other professional with a minimum of five years' experience in the
8 treatment of alcoholism. All centers shall be required to develop
9 individualized treatment plans for all persons attending the centers;
10 provided that the duration of any ordered treatment or referral shall
11 not exceed one year. It shall be the center's responsibility to establish
12 networks with the community alcohol and drug education, treatment
13 and rehabilitation resources and to receive monthly reports from the
14 referral agencies regarding a person's participation and compliance
15 with the program. Nothing in this subsection shall bar these centers
16 from developing their own education and treatment programs;
17 provided that they are approved by the Division of Alcoholism and
18 Drug Abuse.

19 Upon a person's failure to report to the initial screening or any
20 subsequent ordered referral, the Intoxicated Driver Resource Center
21 shall promptly notify the sentencing court of the person's failure to
22 comply.

23 Required detention periods at the Intoxicated Driver Resource
24 Centers shall be determined according to the individual treatment
25 classification assigned by the Intoxicated Driving Program Unit. Upon
26 attendance at an Intoxicated Driver Resource Center, a person shall be
27 required to pay a per diem fee of \$75.00 for the first offender program
28 or a per diem fee of \$100.00 for the second offender program, as
29 appropriate. Any increases in the per diem fees after the first full year
30 shall be determined pursuant to rules and regulations adopted by the
31 Commissioner of Health and Senior Services in consultation with the
32 Governor's Council on Alcoholism and Drug Abuse pursuant to the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.).

35 The centers shall conduct a program of alcohol and drug education
36 and highway safety, as prescribed by the Director of the Division of
37 Motor Vehicles.

38 The Commissioner of Health and Senior Services shall adopt rules
39 and regulations pursuant to the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the
41 purposes of this subsection.

42 (g) When a violation of this section occurs while:

43 (1) on any school property used for school purposes which is
44 owned by or leased to any elementary or secondary school or school
45 board, or within 1,000 feet of such school property;

46 (2) driving through a school crossing as defined in R.S.39:1-1 if

1 the municipality, by ordinance or resolution, has designated the school
2 crossing as such; or

3 (3) driving through a school crossing as defined in R.S.39:1-1
4 knowing that juveniles are present if the municipality has not
5 designated the school crossing as such by ordinance or resolution, the
6 convicted person shall: for a first offense, be fined not less than \$500
7 or more than \$800, be imprisoned for not more than 60 days and have
8 his license to operate a motor vehicle suspended for a period of not
9 less than one year or more than two years; for a second offense, be
10 fined not less than \$1,000 or more than \$2,000, perform community
11 service for a period of 60 days, be imprisoned for not less than 96
12 consecutive hours, which shall not be suspended or served on
13 probation, nor more than 180 days, except that the court may lower
14 such term for each day, not exceeding 90 days, served performing
15 community service in such form and on such terms as the court shall
16 deem appropriate under the circumstances and have his license to
17 operate a motor vehicle suspended for a period of not less than four
18 years; and, for a third offense, be fined \$2,000, imprisoned for 180
19 days and have his license to operate a motor vehicle suspended for a
20 period of 20 years; the period of license suspension shall commence
21 upon the completion of any prison sentence imposed upon that person.

22 A map or true copy of a map depicting the location and boundaries
23 of the area on or within 1,000 feet of any property used for school
24 purposes which is owned by or leased to any elementary or secondary
25 school or school board produced pursuant to section 1 of P.L.1987,
26 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
27 of this subsection.

28 It shall not be relevant to the imposition of sentence pursuant to
29 paragraph (1) or (2) of this subsection that the defendant was unaware
30 that the prohibited conduct took place while on or within 1,000 feet
31 of any school property or while driving through a school crossing.
32 Nor shall it be relevant to the imposition of sentence that no juveniles
33 were present on the school property or crossing zone at the time of the
34 offense or that the school was not in session.

35 (h) A court also may order a person convicted pursuant to
36 subsection a. of this section, to participate in a supervised visitation
37 program as either a condition of probation or a form of community
38 service, giving preference to those who were under the age of 21 at
39 the time of the offense. Prior to ordering a person to participate in
40 such a program, the court may consult with any person who may
41 provide useful information on the defendant's physical, emotional and
42 mental suitability for the visit to ensure that it will not cause any injury
43 to the defendant. The court also may order that the defendant
44 participate in a counseling session under the supervision of the
45 Intoxicated Driving Program Unit prior to participating in the
46 supervised visitation program. The supervised visitation program shall

1 be at one or more of the following facilities which have agreed to
2 participate in the program under the supervision of the facility's
3 personnel and the probation department:

4 (1) a trauma center, critical care center or acute care hospital
5 having basic emergency services, which receives victims of motor
6 vehicle accidents for the purpose of observing appropriate victims of
7 drunk drivers and victims who are, themselves, drunk drivers;

8 (2) a facility which cares for advanced alcoholics or drug abusers,
9 to observe persons in the advanced stages of alcoholism or drug abuse;
10 or

11 (3) if approved by a county medical examiner, the office of the
12 county medical examiner or a public morgue to observe appropriate
13 victims of vehicle accidents involving drunk drivers.

14 As used in this section, "appropriate victim" means a victim whose
15 condition is determined by the facility's supervisory personnel and the
16 probation officer to be appropriate for demonstrating the results of
17 accidents involving drunk drivers without being unnecessarily
18 gruesome or traumatic to the defendant.

19 If at any time before or during a visitation the facility's supervisory
20 personnel and the probation officer determine that the visitation may
21 be or is traumatic or otherwise inappropriate for that defendant, the
22 visitation shall be terminated without prejudice to the defendant. The
23 program may include a personal conference after the visitation, which
24 may include the sentencing judge or the judge who coordinates the
25 program for the court, the defendant, defendant's counsel, and, if
26 available, the defendant's parents to discuss the visitation and its effect
27 on the defendant's future conduct. If a personal conference is not
28 practicable because of the defendant's absence from the jurisdiction,
29 conflicting time schedules, or any other reason, the court shall require
30 the defendant to submit a written report concerning the visitation
31 experience and its impact on the defendant. The county, a court, any
32 facility visited pursuant to the program, any agents, employees, or
33 independent contractors of the court, county, or facility visited
34 pursuant to the program, and any person supervising a defendant
35 during the visitation, are not liable for any civil damages resulting from
36 injury to the defendant, or for civil damages associated with the
37 visitation which are caused by the defendant, except for willful or
38 grossly negligent acts intended to, or reasonably expected to result in,
39 that injury or damage.

40 The Supreme Court may adopt court rules or directives to
41 effectuate the purposes of this subsection.

42 (i) In addition to any other fine, fee, or other charge imposed
43 pursuant to law, the court shall assess a person convicted of a
44 violation of the provisions of this section a surcharge of \$100, of
45 which amount \$50 shall be payable to the municipality in which the
46 conviction was obtained and \$50 shall be payable to the Treasurer of

1 the State of New Jersey for deposit into the General Fund.

2 (cf: P.L.2002, c.34, s.17)

3

4 21. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to read
5 as follows:

6 2. (a) Any person who operates a motor vehicle on any public
7 road, street or highway or quasi-public area in this State shall be
8 deemed to have given his consent to the taking of samples of his
9 breath for the purpose of making chemical tests to determine the
10 content of alcohol in his blood; provided, however, that the taking of
11 samples is made in accordance with the provisions of this act and at
12 the request of a police officer who has reasonable grounds to believe
13 that such person has been operating a motor vehicle in violation of the
14 provisions of R.S.39:4-50 or section 2 of P.L. , c. (C.) (now
15 pending before the Legislature as this bill).

16 (b) A record of the taking of any such sample, disclosing the date
17 and time thereof, as well as the result of any chemical test, shall be
18 made and a copy thereof, upon his request, shall be furnished or made
19 available to the person so tested.

20 (c) In addition to the samples taken and tests made at the direction
21 of a police officer hereunder, the person tested shall be permitted to
22 have such samples taken and chemical tests of his breath, urine or
23 blood made by a person or physician of his own selection.

24 (d) The police officer shall inform the person tested of his rights
25 under subsections (b) and (c) of this section.

26 (e) No chemical test, as provided in this section, or specimen
27 necessary thereto, may be made or taken forcibly and against physical
28 resistance thereto by the defendant. The police officer shall, however,
29 inform the person arrested of the consequences of refusing to submit
30 to such test in accordance with section 2 of [this amendatory and
31 supplementary act] P.L.1981, c.512 (C.39:4-50.4a). A standard
32 statement, prepared by the director, shall be read by the police officer
33 to the person under arrest.

34 (cf: P.L.1981, c.512, s.1)

35

36 22. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to
37 read as follows:

38 2. a. Except as provided in subsection b. of this section, the
39 municipal court shall revoke the right to operate a motor vehicle of
40 any operator who, after being arrested for a violation of R.S.39:4-50
41 or section 2 of P.L. , c. (C.) (now pending before the
42 Legislature as this bill), shall refuse to submit to a test provided for in
43 section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so,
44 for six months unless the refusal was in connection with a second
45 offense under this section, in which case the revocation period shall be
46 for two years or unless the refusal was in connection with [a third or

1 subsequent] an offense under [this] section 2 of P.L. , c. (C.)
2 (now pending before the Legislature as this bill) in which case the
3 revocation shall be for ten years. A conviction or administrative
4 determination of a violation of a law of a substantially similar nature
5 in another jurisdiction, regardless of whether that jurisdiction is a
6 signatory to the Interstate Driver License Compact pursuant to
7 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction
8 under this section.

9 The municipal court shall determine by a preponderance of the
10 evidence whether the arresting officer had probable cause to believe
11 that the person had been driving or was in actual physical control of
12 a motor vehicle on the public highways or quasi-public areas of this
13 State while the person was under the influence of intoxicating liquor
14 or a narcotic, hallucinogenic, or habit-producing drug or marijuana;
15 whether the person was placed under arrest, if appropriate, and
16 whether he refused to submit to the test upon request of the officer;
17 and if these elements of the violation are not established, no conviction
18 shall issue. In addition to any other requirements provided by law, a
19 person whose operator's license is revoked for refusing to submit to a
20 test shall be referred to an Intoxicated Driver Resource Center
21 established by subsection (f.) of R.S.39:4-50 and shall satisfy the same
22 requirements of the center for refusal to submit to a test as provided
23 for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with
24 a first[,] or second[, third or subsequent] offense under this section
25 or an offense under section 2 of P.L. , c. (C.) (now pending
26 before the Legislature as this bill that must be satisfied by a person
27 convicted of a commensurate violation of this section, or be subject to
28 the same penalties as such a person for failure to do so. The
29 revocation shall be independent of any revocation imposed by virtue
30 of a conviction under the provisions of R.S.39:4-50.

31 In addition to issuing a revocation, except as provided in subsection
32 b. of this section, the municipal court shall fine a person convicted
33 under this section, a fine of not less than \$250.00 nor more than
34 \$500.00.

35 b. The fine imposed upon the convicted person shall be not less
36 than \$500 or more than \$1,000 and the period of license suspension
37 shall be one year for a first offense, four years for a second offense and
38 20 years for a third or subsequent offense, which period shall
39 commence upon the completion of any prison sentence imposed upon
40 that person when a violation of this section occurs while:

41 (1) on any school property used for school purposes which is
42 owned by or leased to any elementary or secondary school or school
43 board, or within 1,000 feet of such school property;

44 (2) driving through a school crossing as defined in R.S.39:1-1 if
45 the municipality, by ordinance or resolution, has designated the school
46 crossing as such; or

1 (3) driving through a school crossing as defined in R.S.39:1-1
2 knowing that juveniles are present if the municipality has not
3 designated the school crossing as such by ordinance or resolution.

4 A map or true copy of a map depicting the location and boundaries
5 of the area on or within 1,000 feet of any property used for school
6 purposes which is owned by or leased to any elementary or secondary
7 school or school board produced pursuant to section 1 of P.L.1997,
8 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
9 of this subsection.

10 It shall not be relevant to the imposition of sentence pursuant to
11 paragraph (1) or (2) of this subsection that the defendant was unaware
12 that the prohibited conduct took place while on or within 1,000 feet
13 of any school property or while driving through a school crossing.
14 Nor shall it be relevant to the imposition of sentence that no juveniles
15 were present on the school property or crossing zone at the time of the
16 offense or that the school was not in session.

17 (cf: P.L.1999, c.185, s.5)

18
19 23. Section 1 of P.L.1984, c.4 (C.39:4-50.8) is amended to read as
20 follows:

21 1. Upon a conviction of a violation of R.S.39:4-50, section 2 of
22 P.L. , c. (C.) (now pending before the Legislature as this bill)
23 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall collect
24 from the defendant a surcharge of \$100.00 in addition to and
25 independently of any fine imposed on that defendant. The court shall
26 forward the surcharge to the Director of the Division of Motor
27 Vehicles who shall deposit \$95.00 of the surcharge into a "Drunk
28 Driving Enforcement Fund" (hereinafter referred to as the "fund").
29 This fund shall be used to establish a Statewide drunk driving
30 enforcement program to be supervised by the director. The remaining
31 \$5.00 of each surcharge shall be deposited by the director into a
32 separate fund for administrative expenses.

33 A municipality shall be entitled to periodic grants from the "Drunk
34 Driving Enforcement Fund" in amounts representing its proportionate
35 contribution to the fund. A municipality shall be deemed to have
36 contributed to the fund the portion of the surcharge allocated to the
37 fund, collected pursuant to this section if the violation of
38 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before
39 the Legislature as this bill) or section 2 of P.L.1981, c.512
40 (C.39:4-50.4a) occurred within the municipality and the arrest
41 resulting in conviction was made by the member of a municipal police
42 force. The grants from the fund shall be used by the municipality to
43 increase enforcement of R.S.39:4-50, section 2 of P.L. , c.
44 (C.) (now pending before the Legislature as this bill) by
45 subsidizing additional law enforcement patrols and through other
46 measures approved by the director. The Division of State Police,

1 interstate law enforcement agencies and county law enforcement
2 agencies shall be entitled to periodic grants from the fund in amounts
3 representing their proportionate contribution to the fund. The
4 Division of State Police or county or interstate law enforcement
5 agency shall be deemed to have contributed to the fund the portion
6 of the surcharge allocated to the fund collected pursuant to this
7 section if the arrest resulting in a conviction was made by a member of
8 the Division of State Police or county or interstate law enforcement
9 agency. The grants from the fund shall be used by the Division of
10 State Police or county or interstate law enforcement agency to
11 increase enforcement of R.S.39:4-50 and section 2 of P.L. , c.
12 (C.) (now pending before the Legislature as this bill) by
13 subsidizing additional law enforcement patrols and through other
14 measures approved by the director.

15 The surcharge described herein shall not be considered a fine,
16 penalty or forfeiture to be distributed pursuant to R.S.39:5-41.

17 The director shall promulgate rules and regulations in order to
18 effectuate the purposes of this section.

19 (cf: P.L.1994, c.184, s.3)

20

21 24. Section 1 of P.L.1992, c.189 (C.39:4-50.14) is amended to
22 read as follows:

23 1. Any person under the legal age to purchase alcoholic beverages
24 who operates a motor vehicle with a blood alcohol concentration of
25 0.01% or more, but less than 0.10%, by weight of alcohol in his blood,
26 shall forfeit his right to operate a motor vehicle over the highways of
27 this State or shall be prohibited from obtaining a license to operate a
28 motor vehicle in this State for a period of not less than 30 or more
29 than 90 days beginning on the date he becomes eligible to obtain a
30 license or on the day of conviction, whichever is later, and shall
31 perform community service for a period of not less than 15 or more
32 than 30 days.

33 In addition, the person shall satisfy the program and fee
34 requirements of an Intoxicated Driver Resource Center or participate
35 in a program of alcohol education and highway safety as prescribed by
36 the Director of the Division of Motor Vehicles.

37 The penalties provided under the provisions of this section shall be
38 in addition to the penalties which the court may impose under
39 N.J.S.2C:33-15, R.S.33:1-81, R.S.39:4-50 or section 2 of P.L. ,
40 c. (C.) (now pending before the Legislature as this bill) or any
41 other law.

42 (cf: P.L.1992, c.189, s.1)

43

44 25. R.S.39:5-22 is amended to read as follows:

45 39:5-22. Where a license has been revoked for a violation of
46 [section] R.S. 39:4-50 [of this Title] or section 2 of P.L. , c.

1 (C. _____) (now pending before the Legislature as this bill), and an
2 appeal has been taken from the judgment, the appeal shall not operate
3 to restore the license during the pendency of the appeal, however, the
4 license may be restored either by the trial court or the appellate court
5 pending disposition of the appeal.

6 (cf: P.L.1965, c.237, s.1)

7

8 26. R.S.39:5-30 is amended to read as follows:

9 39:5-30. a. Every registration certificate, every license certificate,
10 every privilege to drive motor vehicles, including commercial motor
11 vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al., every
12 endorsement, class of license, and commercial driver license, may be
13 suspended or revoked, and any person may be prohibited from
14 obtaining a driver's license or a registration certificate, or disqualified
15 from obtaining any class of or endorsement on a commercial driver
16 license, and the reciprocity privilege of any nonresident may be
17 suspended or revoked by the director for a violation of any of the
18 provisions of this Title or on any other reasonable grounds, after due
19 notice in writing of such proposed suspension, revocation,
20 disqualification or prohibition and the ground thereof.

21 He may also summon witnesses to appear before him at his office
22 or at any other place he designates, to give testimony in a hearing
23 which he holds looking toward a revocation of a license or registration
24 certificate issued by or under his authority. The summons shall be
25 served at least five days before the return date, either by registered
26 mail or personal service. A person who fails to obey the summons shall
27 be subject to a penalty not exceeding \$100.00, to be recovered with
28 costs in an action at law, prosecuted by the Attorney General, and in
29 addition the vehicle registration or driver's license, or both, as the case
30 may be, shall forthwith be revoked. The fee for witnesses required to
31 attend before the director shall be \$1.00 for each day's attendance and
32 \$0.03 for every mile of travel by the nearest generally traveled route
33 in going to and from the place where the attendance of the witness is
34 required. These fees shall be paid when the witness is excused from
35 further attendance, and the disbursements made from payment of the
36 fees shall be audited and paid in the manner provided for expenses of
37 the department. The actual conduct of said hearing may be delegated
38 by the director to such departmental employees as he may designate,
39 in which case the said employees shall recommend to the director in
40 writing whether the said licenses or certificates shall or shall not be
41 suspended or revoked.

42 b. Whenever a matter is presented to the director involving an
43 alleged violation of

44 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
45 authorized speed limit is alleged, and which has resulted in the death
46 of another;

1 (2) R.S.39:4-50 or section 2 of P.L. , c. (C.) (now pending
2 before the Legislature as this bill), and which has resulted in the death
3 of another;

4 (3) R.S.39:4-96, and which has resulted in the death of another; or

5 (4) R.S.39:4-129, wherein the death of another has occurred, and
6 the director has not determined to immediately issue a preliminary
7 suspension pursuant to subsection e. of this section, the director shall
8 issue a notice of proposed final suspension or revocation of any license
9 certificate or any nonresident reciprocity privilege to operate any
10 motor vehicle or motorized bicycle held by the individual charged or
11 temporary order prohibiting the individual from obtaining any license
12 to operate any motor vehicle or motorized bicycle in this State.

13 In the notice, the director shall provide the individual charged with
14 an opportunity for a plenary hearing to contest the proposed final
15 suspension, revocation or other final agency action. Unless the
16 division receives, no later than the 10th day from the date the notice
17 was mailed, a written request for hearing, the proposed final agency
18 action shall take effect on the date specified in the notice.

19 Upon receipt of a timely request for a plenary hearing, a preliminary
20 hearing shall be held by an administrative law judge within 15 days of
21 the receipt of the request. The preliminary hearing shall be for the
22 purpose of determining whether, pending a plenary hearing on the
23 proposed final agency action, a preliminary suspension shall be
24 immediately issued by the judge. Adjournment of such hearing upon
25 motion by the individual charged shall be given only for good cause
26 shown.

27 At the preliminary hearing, the parties shall proceed on the papers
28 submitted to the judge, including the summons, the police reports and
29 the charged individual's prior driving record submitted by the division,
30 and any brief affidavits permitted by the judge from persons who shall
31 be witnesses at the plenary hearing, and the parties may present oral
32 argument. Based on the papers, on any oral argument, on the
33 individual's prior driving record, and on the circumstances of the
34 alleged violation presented in the papers, the judge shall determine
35 whether the individual was properly charged with a violation of the
36 law and a death occurred; and, if so, whether in the interest of public
37 safety, a preliminary suspension shall be immediately ordered pending
38 the plenary hearing on the proposed suspension or revocation. The
39 administrative law judge shall transmit his findings to the director.

40 A plenary hearing shall be held no later than the 45th day following
41 the preliminary hearing. Adjournment of the hearing shall be given
42 only for good cause shown. If the hearing is otherwise postponed or
43 delayed solely at the instance of the individual charged, the
44 administrative law judge shall immediately issue a preliminary
45 suspension of any license certificate or any nonresident reciprocity
46 privilege held by the individual charged, or if any such preliminary

1 suspension or order is in effect, he shall continue such suspension or
2 order. Such preliminary suspension or temporary order shall remain
3 in effect pending a final agency decision on the matter. If the hearing
4 is otherwise postponed or delayed at the instance of anyone other than
5 the individual charged, the judge shall immediately issue an order
6 restoring the individual's license certificate or any nonresident
7 reciprocity privilege pending final agency decision in the matter. The
8 period of any preliminary suspension imposed under this section shall
9 be deducted from any suspension imposed by the final agency decision
10 in the matter.

11 c. Whenever any other matter is presented to the director involving
12 an alleged violation of this title, wherein the death of another occurred
13 and for which he determines immediate action is warranted, he may
14 proceed in the manner prescribed in subsection b. above.

15 d. Whenever a fatal accident occurs in this State, an investigation
16 of the incident, whether performed by the State Police or by local
17 police, shall be completed and forwarded to the director within
18 72 hours of the time of the accident.

19 e. Whenever a matter is presented to the director involving an
20 alleged violation of

21 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
22 authorized speed limit is alleged, and which has resulted in the death
23 or serious bodily injury of another;

24 (2) R.S.39:4-50 or section 2 of P.L. , c. (C.) (now pending
25 before the Legislature as this bill), which has resulted in the death or
26 serious bodily injury of another;

27 (3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or
28 serious bodily injury of another; or

29 (4) R.S.39:4-129, wherein the death or serious bodily injury of
30 another has occurred, the director for good cause may, without
31 hearing, immediately issue a preliminary suspension of any license
32 certificate or any nonresident reciprocity privilege to operate any
33 motor vehicle or motorized bicycle held by an individual charged or
34 temporary order prohibiting the individual from obtaining any license
35 to operate any motor vehicle or motorized bicycle in this State. For
36 purposes of this subsection, "serious bodily injury" means bodily injury
37 which creates a substantial risk of death or which causes serious,
38 permanent disfigurement, or protracted loss or impairment of the
39 function of any bodily member or organ. Along with the notice of
40 preliminary suspension, the director shall issue a notice of proposed
41 final suspension, revocation or other final agency action, and shall
42 afford the individual the right to a preliminary hearing to contest the
43 preliminary suspension and a plenary hearing to contest the proposed
44 final agency action.

45 The preliminary suspension shall remain in effect pending a final
46 agency decision on the proposed final agency action, unless a request

1 for a preliminary hearing is received by the division no later than the
2 10th day from the date on which the notice was mailed. The proposed
3 final agency action shall take effect on the date specified in the notice
4 unless a request for a plenary hearing is received by the division no
5 later than the 10th day from the date on which the notice was mailed.

6 Upon timely request by the individual, a preliminary hearing shall
7 be held by an administrative law judge, no later than the 15th day from
8 the date on which the division receives the request. The preliminary
9 hearing shall be for the purpose of determining whether, pending a
10 final agency decision on the matter, the preliminary suspension issued
11 by the director shall remain in effect. Adjournment of the hearing shall
12 be given only for good cause shown. If the preliminary hearing is
13 otherwise postponed or delayed solely at the instance of someone
14 other than the individual charged, the judge shall immediately order
15 that the individual's license certificate or any nonresident reciprocity
16 privilege be restored pending the rescheduled preliminary hearing.

17 At the preliminary hearing, the parties shall proceed on the papers
18 submitted to the judge, including the summons, the police reports and
19 the charged individual's prior driving record submitted by the division,
20 and any brief affidavits permitted by the judge from persons who shall
21 be witnesses at the final hearing, and the parties may present oral
22 arguments. Based on the papers, on any oral argument, on the
23 individual's prior driving record, and on the circumstances of the
24 alleged violation presented in the papers, the judge shall immediately
25 determine whether the individual was properly charged with a violation
26 of the law and a death occurred; and, if so, whether in the interest of
27 public safety, the preliminary suspension shall be continued pending
28 the final agency decision on the matter. The administrative law judge
29 shall transmit his findings to the director.

30 Any plenary hearing to contest the proposed final agency action
31 shall conform to the requirements for a plenary hearing contained in
32 subsection b. of this section.

33 f. In addition to any other final agency action, the director shall
34 require any person whose privileges to operate a motor vehicle or
35 motorized bicycle are suspended or who has been prohibited from
36 obtaining a license, pursuant to this section, to be reexamined to
37 determine the person's ability to operate a motor vehicle or motorized
38 bicycle, prior to regaining or obtaining any driving privileges in this
39 State.

40 Any determination resulting from any preliminary or plenary hearing
41 held pursuant to subsection b., c., or e. of this section shall not be
42 admissible at any criminal or quasi-criminal proceedings on the alleged
43 violation or violations.

44 (cf: P.L.1990, c.103, s.33)

45

46 27. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to

1 read as follows:

2 14. a. Any person who, at the time of an automobile accident
3 resulting in injuries to that person, is required but fails to maintain
4 medical expense benefits coverage mandated by section 4 of P.L.1972,
5 c.70 (C.39:6A-4) or section 4 of P.L.1998, c.21 (C.39:6A-3.1) shall
6 have no cause of action for recovery of economic or noneconomic loss
7 sustained as a result of an accident while operating an uninsured
8 automobile.

9 b. Any person who is convicted of, or pleads guilty to, operating
10 a motor vehicle in violation of R.S.39:4-50, section 2 of P.L. , c.
11 (C.) (now pending before the Legislature as this bill), section 2 of
12 P.L.1981, c.512 (C.39:4-50.4a), or a similar statute from any other
13 jurisdiction, in connection with an accident, shall have no cause of
14 action for recovery of economic or noneconomic loss sustained as a
15 result of the accident.

16 c. Any person acting with specific intent of causing injury to
17 himself or others in the operation or use of an automobile shall have
18 no cause of action for recovery of economic or noneconomic loss
19 sustained as a result of an accident arising from such conduct.

20 (cf: P.L.1998, c.21, s.8)

21

22 28. Section 6 of P.L.1995, c.142 (C.2A:15-5.14) is amended to
23 read as follows:

24 6. a. Before entering judgment for an award of punitive damages,
25 the trial judge shall ascertain that the award is reasonable in its amount
26 and justified in the circumstances of the case, in light of the purpose
27 to punish the defendant and to deter that defendant from repeating
28 such conduct. If necessary to satisfy the requirements of this section,
29 the judge may reduce the amount of or eliminate the award of punitive
30 damages.

31 b. No defendant shall be liable for punitive damages in any action
32 in an amount in excess of five times the liability of that defendant for
33 compensatory damages or \$350,000, whichever is greater.

34 c. The provisions of subsection b. of this section shall not apply to
35 causes of action brought pursuant to P.L.1993, c.137 (C.2A:53A-21
36 et seq.), P.L.1945, c.169 (C.10:5-1 et seq.), P.L.1989, c.303
37 (C.26:5C-5 et seq.) or P.L.1992, c.109 (C.2A:61B-1), or in cases in
38 which a defendant has been convicted pursuant to R.S.39:4-50,
39 section 2 of P.L. , c. (C.) (now pending before the Legislature
40 as this bill) or section 2 of P.L.1981, c.512 (C.39:4-50.4a).

41 (cf: P.L.1995, c.142, s.6)

42

43 29. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to
44 read as follows:

45 18. No order for the payment of compensation shall be made under
46 section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has

1 been made within two years after the date of the personal injury or
2 death or after that date upon determination by the board that good
3 cause exists for the delayed filing, and the personal injury or death was
4 the result of an offense listed in section 11 of P.L.1971, c.317
5 (C.52:4B-11) which had been reported to the police or other
6 appropriate law enforcement agency within three months after its
7 occurrence or reasonable discovery. The board will make its
8 determination regarding the application within six months of
9 acknowledgment by the board of receipt of the completed application
10 and any and all necessary supplemental information.

11 In determining the amount of an award, the board shall determine
12 whether, because of his conduct, the victim of such crime contributed
13 to the infliction of his injury, and the board shall reduce the amount of
14 the award or reject the application altogether, in accordance with such
15 determination; provided, however, that the board shall not consider
16 any conduct of the victim contributory toward his injury, if the record
17 indicates such conduct occurred during efforts by the victim to prevent
18 a crime or apprehend a person who had committed a crime in his
19 presence or had in fact committed a crime.

20 The board may deny or reduce an award where the victim has not
21 paid in full any payments owed on assessments imposed pursuant to
22 section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered
23 following conviction for a crime.

24 No compensation shall be awarded if:

25 a. Compensation to the victim proves to be substantial unjust
26 enrichment to the offender or if the victim did not cooperate with the
27 reasonable requests of law enforcement authorities unless the victim
28 demonstrates a compelling health or safety reason for not cooperating;
29 or

30 b. (Deleted by amendment, P.L.1990, c.64.)

31 c. The victim was guilty of a violation of subtitle 10 or 12 of Title
32 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused
33 or contributed to his injuries; or

34 d. The victim was injured as a result of the operation of a motor
35 vehicle, except as provided in subsection c. or d. of section 11 of
36 P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the same was
37 used as a weapon in a deliberate attempt to run the victim down; or

38 e. The victim suffered personal injury or death while an occupant
39 of a motor vehicle or vessel where the victim knew or reasonably
40 should have known that the driver was operating the vehicle or vessel
41 in violation of R.S.39:4-50, section 2 of P.L. , c. (C.) (now
42 pending before the Legislature as this bill), section 5 of P.L.1990,
43 c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19),
44 section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of
45 paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of
46 N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

1 f. The victim has been convicted of a crime and is still incarcerated;
2 or

3 g. The victim sustained the injury during the period of incarceration
4 immediately following conviction for a crime.

5 Except as provided herein, no compensation shall be awarded under
6 this act in an amount in excess of \$25,000.00, and all payments shall
7 be made in a lump sum, except that in the case of death or protracted
8 disability the award may provide for periodic payments to compensate
9 for loss of earnings or support. Five years after the entry of an initial
10 determination order, a claim for compensation expires and no further
11 order is to be entered with regard to the claim except for requests for
12 payment of specific out-of-pocket expenses received by the Victims of
13 Crime Compensation Board prior to the expiration of the five-year
14 period except in those cases determined by the board to be
15 catastrophic in nature. No award made pursuant to this act shall be
16 subject to execution or attachment other than for expenses resulting
17 from the injury which is the basis of the claim.

18 Compensation may be awarded in an amount not exceeding the
19 actual cost of a rehabilitative service of the type enumerated in section
20 2 of P.L.1999, c.166 (C.52:4B-18.2).

21 The award may provide for periodic payments in the case of
22 protracted care or rehabilitative assistance.
23 (cf: P.L.1999, c.166, s.1)

24

25 30. Section 1 of P.L.1989, c.325 (C.59:5-6) is amended to read as
26 follows:

27 1. a. Neither a public entity nor a public employee is liable for any
28 injury suffered by a motor vehicle driver upon his voluntary release
29 from police custody after reasonable precautions have been taken so
30 that the driver is released in a position of relative safety and refuge
31 following his arrest on a charge of operating a motor vehicle while
32 under the influence of intoxicating liquor or drugs, pursuant to
33 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before
34 the Legislature as this bill).

35 b. Neither a public entity nor a public employee is liable for any
36 injury suffered by a motor vehicle occupant upon his voluntary release
37 from police detention after reasonable precautions have been taken so
38 that the occupant is released in a position of relative safety and refuge
39 following the arrest of a motor vehicle driver on a charge of operating
40 a motor vehicle while under the influence of intoxicating liquor or
41 drugs, pursuant to R.S.39:4-50 or section 2 of P.L. , c. (C.)
42 (now pending before the Legislature as this bill).
43 (cf: P.L.1989, c.325, s.1)

44

45 31. This act shall take effect immediately and shall be applicable to
46 offenses committed on or after the effective date.

STATEMENT

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This bill would establish criminal penalties for third and subsequent offenses of driving while intoxicated (DWI). Currently, DWI is a traffic offense under Title 39 of the Revised Statutes (the State motor vehicle code). First and second DWI offenses would remain traffic offenses under this bill.

Under the provisions of the bill, a person who had committed a third or subsequent DWI offense would be guilty of a crime of the fourth degree. A crime of the fourth degree is punishable by a fine of up to \$10,000, imprisonment of up to 18 months, or both. The bill requires that the person be sentenced to 180 days imprisonment, except that the court may lower the term of imprisonment for up to 90 days for each day the offender participates in a rehabilitation program for drug and alcohol dependent persons. The person's driver's license also would be suspended for 10 years, which is the period of suspension required under current law.

The bill also provides for an enhanced penalty if the third or subsequent violation occurs in a school zone or in or near a school crosswalk. In such instances, the person would be guilty of a crime of the third degree. A crime of the third degree is punishable by a fine of up to \$15,000, imprisonment for three to five years, or both. The person's driver's license also would be suspended for 20 years.

Where appropriate, the bill also would add the criminal code compilation number assigned to the offense created under this bill to statutory references for the current drunk driving statute (R.S.39:4-50).

It is the sponsor's intention that this act be known as "Michael's Law," in memory of Michael Albano, a 19-year old from Vineland who was killed by a drunk driver in December 2001. The offender had four previous drunk driving convictions. By treating third and subsequent drunk driving offenses as crimes, it is the sponsor's hope that judicial and administrative agencies will be provided with the tools to motivate these offenders to seek treatment for the underlying alcohol or drug problem that causes them to reoffend. The threat of 18 months imprisonment could afford the court the opportunity to seriously address rehabilitation needs by providing an incentive for the offender to participate in treatment for drug and alcohol dependency.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3342**

STATE OF NEW JERSEY

DATED: MARCH 10, 2003

The Assembly Law and Public Safety committee reports favorably an Assembly committee substitute for Assembly Bill No. 3342.

This Assembly committee substitute for Assembly Bill No. 3342 requires persons convicted of a third or subsequent drunk driving offense to be sentenced to a mandatory 90-day term of imprisonment in a county jail or workhouse and ordered by the court to participate in a 90-day alcohol inpatient rehabilitation program.

Under current law, persons convicted of a third or subsequent offense of drunk driving are subject to 180 days imprisonment, except that the court may reduce this term by up to 90 days for each day served performing community service. Furthermore, these offenders may not be required to serve their term of imprisonment in the county jail or workhouse, but may serve such imprisonment in an inpatient rehabilitation program. Under the bill, at least 90 days would have to be served in jail without exception.

The substitute also makes drunk drivers who are required to serve a mandatory 90-day term of imprisonment ineligible to participate in a work release program. Under a work release program, qualified prisoners may be employed outside the jail, but when not working, they must be confined to the jail.

It is the committee's intention that this act be known as "Michael's Law," in memory of Michael Albano, a 19-year old from Vineland who was killed by a drunk driver in December 2001. The offender had four previous drunk driving convictions.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3342

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 2003

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Assembly Bill No. 3342 ACS.

As amended and released by the committee, the Assembly Committee Substitute for Assembly Bill No. 3342 requires persons convicted of a third or subsequent drunk driving offense to be sentenced to a mandatory 180-day term of imprisonment in a county jail or workhouse, but provides that the court may reduce the term of imprisonment for each day, up to a total of 90 days, that the person participates in an alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center (IDRC).

Under current law, persons convicted of a third or subsequent offense of drunk driving are subject to 180 days imprisonment, except that the court may reduce this term by up to 90 days for each day served performing community service. Furthermore, these offenders may not be required to serve their term of imprisonment in the county jail or workhouse, but may serve such imprisonment in an inpatient rehabilitation program. Under the substitute, at least 90 days would have to be served in jail without exception.

The substitute also makes drunk drivers who are required to serve the mandatory term of imprisonment ineligible to participate in a work release program. Under a work release program, qualified prisoners may be employed outside the jail, but when not working, they must be confined to the jail.

As received by the committee, the substitute required persons convicted of a third or subsequent drunk driving offense to be sentenced to a mandatory 90-day term of imprisonment in a county jail or workhouse and to participate in a 90-day alcohol inpatient rehabilitation program.

It is the committee's intention that this act be known as "Michael's Law," in memory of Michael Albano, a 19-year old from Vineland who

was killed by a drunk driver in December 2001. The offender had four previous drunk driving convictions.

As amended and reported by the committee, this substitute is identical to the Senate Committee Substitute for Senate Bill No. 2378, which also was reported by the committee on this date.

SENATE, No. 2378

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 10, 2003

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

"Michael's Law;" criminalizes third or subsequent drunk driving offenses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/25/2003)

1 AN ACT concerning driving while under the influence, supplementing
2 Title 2C of the New Jersey Statutes and amending various sections
3 of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as
9 "Michael's Law."

10

11 2. (New section) a. A person who operates a motor vehicle while
12 under the influence of intoxicating liquor, narcotic, hallucinogenic or
13 habit-producing drug, or operates a motor vehicle with a blood alcohol
14 concentration of 0.10% or more by weight of alcohol in the
15 defendant's blood or permits another person who is under the influence
16 of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug
17 to operate a motor vehicle owned by him or in his custody or control
18 or permits another to operate a motor vehicle with a blood alcohol
19 concentration of 0.10% or more by weight of alcohol in the
20 defendant's blood shall for a third or subsequent violation be guilty of
21 a crime of the fourth degree and, notwithstanding the provisions of
22 subsection c. of N.J.S.2C:43-2, shall forfeit his right to operate a
23 motor vehicle over the highways of this State for 10 years. In
24 addition, the person shall be sentenced to imprisonment for a term of
25 not less than 180 days, except that the court may lower such term for
26 each day, not exceeding 90 days, of participation in a rehabilitation
27 program for drug and alcohol dependent persons.

28

If such third or subsequent violation occurs while:

29

(1) on any school property used for school purposes which is
30 owned by or leased to any elementary or secondary school or school
31 board, or within 1,000 feet of such school property;

32

(2) driving through a school crossing as defined in R.S.39:1-1 if
33 the municipality, by ordinance or resolution, has designated the school
34 crossing as such; or

35

(3) driving through a school crossing as defined in R.S.39:1-1
36 knowing that juveniles are present and if the municipality has not
37 designated the school crossing as such by ordinance or resolution, the
38 convicted person shall be guilty of a crime of the third degree and,
39 notwithstanding the provisions of subsection c. of N.J.S.2C:43-2, shall
40 forfeit his right to operate a motor vehicle over the highways of this
41 State for 20 years.

42

If the driving privilege of any person is under revocation or
43 suspension for a violation of any provision of this Title or Title 39 of

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

Matter underlined thus is new matter.

1 the Revised Statutes at the time of any conviction for a violation of
2 this section, the revocation or suspension period imposed shall
3 commence as of the date of termination of the existing revocation or
4 suspension period. In the case of any person who at the time of the
5 imposition of sentence is less than 17 years of age, the forfeiture,
6 suspension or revocation of the driving privilege imposed by the court
7 under this section shall commence immediately, run through the
8 offender's seventeenth birthday and continue from that date for the
9 period set by the court. A court that imposes a term of imprisonment
10 under this section may sentence the person so convicted to the county
11 jail, to the workhouse of the county wherein the offense was
12 committed, to an inpatient rehabilitation program or other facility
13 approved by the chief of the Intoxicated Driving Program of the
14 Division of Addiction Services in the Department of Health and Senior
15 Services.

16 b. Pursuant to the requirements set forth in R.S.39:4-50, a person
17 convicted under this section shall satisfy the screening, evaluation,
18 referral, program and fee requirements of the Division of Addiction
19 Services' Intoxicated Driving Program, and of the Intoxicated Driver
20 Resource Centers and a program of alcohol education and highway
21 safety, as prescribed by the Director of the Division of Motor
22 Vehicles. The sentencing court shall inform the person convicted that
23 failure to satisfy such requirements shall result in a mandatory two-day
24 term of imprisonment in a county jail and a driver license revocation
25 or suspension and continuation of revocation or suspension until such
26 requirements are satisfied, unless stayed by court order in accordance
27 with Rule 7:8-2 of the Rules Governing the Courts of the State of
28 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward
29 to the Intoxicated Driving Program Unit a copy of a person's
30 conviction record. A fee of \$100 shall be payable to the Alcohol
31 Education, Rehabilitation and Enforcement Fund established pursuant
32 to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
33 Intoxicated Driving Program.

34 c. Upon conviction of a violation of this section, the court shall
35 collect forthwith the New Jersey driver's license or licenses of the
36 person so convicted and forward such license or licenses to the
37 Director of the Division of Motor Vehicles. The court shall inform the
38 person convicted that if he is convicted of personally operating a
39 motor vehicle during the period of license suspension imposed
40 pursuant to subsection a. of this section, he shall, upon conviction, be
41 subject to the penalties established in R.S.39:3-40. The person
42 convicted shall be informed orally and in writing. A person shall be
43 required to acknowledge receipt of that written notice in writing.
44 Failure to receive a written notice or failure to acknowledge in writing
45 the receipt of a written notice shall not be a defense to a subsequent
46 charge of a violation of R.S.39:3-40. In the event that a person

1 convicted under this section is the holder of any out of State driver's
2 license, the court shall not collect the license but shall notify forthwith
3 the director, who shall, in turn, notify appropriate officials in the
4 licensing jurisdiction. The court shall, however, revoke the
5 nonresident's driving privilege to operate a motor vehicle in this State,
6 in accordance with this section.

7
8 3. N.J.S.2C:11-5 is amended to read as follows:

9 2C:11-5. Death by auto or vessel. a. Criminal homicide
10 constitutes vehicular homicide when it is caused by driving a vehicle
11 or vessel recklessly.

12 b. Except as provided in paragraph (3) of this subsection, vehicular
13 homicide is a crime of the second degree.

14 (1) If the defendant was operating the auto or vessel while under
15 the influence of any intoxicating liquor, narcotic, hallucinogenic or
16 habit-producing drug, or with a blood alcohol concentration at or
17 above the prohibited level as prescribed in R.S.39:4-50 and section 2
18 of P.L. , c. (C.) (now pending before the Legislature as this
19 bill), or if the defendant was operating the auto or vessel while his
20 driver's license or reciprocity privilege was suspended or revoked for
21 any violation of R.S.39:4-50 or section 2 of P.L. , c. (C.)
22 (now pending before the Legislature as this bill), as applicable, section
23 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division
24 of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or
25 by the court for a violation of R.S.39:4-96, the defendant shall be
26 sentenced to a term of imprisonment by the court. The term of
27 imprisonment shall include the imposition of a minimum term. The
28 minimum term shall be fixed at, or between, one-third and one-half of
29 the sentence imposed by the court or three years, whichever is greater,
30 during which the defendant shall be ineligible for parole.

31 (2) The court shall not impose a mandatory sentence pursuant to
32 paragraph (1) of this subsection unless the grounds therefor have been
33 established at a hearing. At the hearing, which may occur at the time
34 of sentencing, the prosecutor shall establish by a preponderance of the
35 evidence that the defendant was operating the auto or vessel while
36 under the influence of any intoxicating liquor, narcotic, hallucinogenic
37 or habit-producing drug, or with a blood alcohol concentration at or
38 above the level prescribed in R.S.39:4-50 and section 2 of P.L. ,
39 c. (C.) (now pending before the Legislature as this bill), as
40 applicable, or that the defendant was operating the auto or vessel
41 while his driver's license or reciprocity privilege was suspended or
42 revoked for any violation of R.S.39:4-50 or section 2 of P.L. , c.
43 (C.) (now pending before the Legislature as this bill), section
44 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the Division
45 of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or
46 by the court for a violation of R.S.39:4-96. In making its findings, the

1 court shall take judicial notice of any evidence, testimony or
2 information adduced at the trial, plea hearing, or other court
3 proceedings and shall also consider the presentence report and any
4 other relevant information.

5 (3) Vehicular homicide is a crime of the first degree if the
6 defendant was operating the auto or vessel while in violation of
7 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

8 (a) on any school property used for school purposes which is
9 owned by or leased to any elementary or secondary school or school
10 board, or within 1,000 feet of such school property;

11 (b) driving through a school crossing as defined in R.S.39:1-1 if
12 the municipality, by ordinance or resolution, has designated the school
13 crossing as such; or

14 (c) driving through a school crossing as defined in R.S.39:1-1
15 knowing that juveniles are present if the municipality has not
16 designated the school crossing as such by ordinance or resolution.

17 A map or true copy of a map depicting the location and boundaries
18 of the area on or within 1,000 feet of any property used for school
19 purposes which is owned by or leased to any elementary or secondary
20 school or school board produced pursuant to section 1 of P.L.1997,
21 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
22 (a) of this paragraph.

23 It shall be no defense to a prosecution for a violation of
24 subparagraph (a) or (b) of this paragraph that the defendant was
25 unaware that the prohibited conduct took place while on or within
26 1,000 feet of any school property or while driving through a school
27 crossing. Nor shall it be a defense to a prosecution under
28 subparagraph (a) or (b) of this paragraph that no juveniles were
29 present on the school property or crossing zone at the time of the
30 offense or that the school was not in session.

31 (4) If the defendant was operating the auto or vessel in violation
32 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
33 defendant's license to operate a motor vehicle shall be suspended for
34 a period of between five years and life, which period shall commence
35 upon completion of any prison sentence imposed upon that person.

36 c. For good cause shown, the court may, in accepting a plea of
37 guilty under this section, order that such plea not be evidential in any
38 civil proceeding.

39 d. Nothing herein shall be deemed to preclude, if the evidence so
40 warrants, an indictment and conviction for aggravated manslaughter
41 under the provisions of subsection a. of N.J.S.2C:11-4.

42 As used in this section, "auto or vessel" means all means of
43 conveyance propelled otherwise than by muscular power.

44 e. Any person who violates paragraph (3) of subsection b. of this
45 section shall forfeit the auto or vessel used in the commission of the
46 offense, unless the defendant can establish at a hearing, which may

1 occur at the time of sentencing, by a preponderance of the evidence
2 that such forfeiture would constitute a serious hardship to the family
3 of the defendant that outweighs the need to deter such conduct by the
4 defendant and others. In making its findings, the court shall take
5 judicial notice of any evidence, testimony or information adduced at
6 the trial, plea hearing, or other court proceedings and shall also
7 consider the presentence report and any other relevant information.
8 Forfeiture pursuant to this subsection shall be in addition to, and not
9 in lieu of, civil forfeiture pursuant to chapter 64 of this title.
10 (cf: P.L.1999, c.185, s.1.)

11

12 4. Section 2 of P.L.1979, c.396 (C.2C:43-3.1) is amended to read
13 as follows:

14 2. a. (1) In addition to any disposition made pursuant to the
15 provisions of N.J.S.2C:43-2, any person convicted of a crime of
16 violence, theft of an automobile pursuant to N.J.S.2C:20-2, eluding a
17 law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
18 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
19 of N.J.S.2C:20-10 shall be assessed at least \$100.00, but not to exceed
20 \$10,000.00 for each such crime for which he was convicted which
21 resulted in the injury or death of another person. In imposing this
22 assessment, the court shall consider factors such as the severity of the
23 crime, the defendant's criminal record, defendant's ability to pay and
24 the economic impact of the assessment on the defendant's dependents.

25 (2) (a) In addition to any other disposition made pursuant to the
26 provisions of N.J.S.2C:43-2 or any other statute imposing sentences
27 for crimes, any person convicted of any disorderly persons offense, any
28 petty disorderly persons offense, or any crime not resulting in the
29 injury or death of any other person shall be assessed \$50.00 for each
30 such offense or crime for which he was convicted.

31 (b) In addition to any other disposition made pursuant to the
32 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
33 statute indicating the dispositions that can be ordered for adjudications
34 of delinquency, any juvenile adjudicated delinquent, according to the
35 definition of "delinquency" established in section 4 of P.L.1982, c.77
36 (C.2A:4A-23), shall be assessed at least \$30.00 for each such
37 adjudication, but not to exceed the amount which could be assessed
38 pursuant to paragraph (1) or paragraph (2) (a) of subsection a. of this
39 section if the offense was committed by an adult.

40 (c) In addition to any other assessment imposed pursuant to the
41 provisions of R.S.39:4-50, section 2 of P.L. , c. (C.) (now
42 pending before the Legislature as this bill), the provisions of section
43 12 of P.L.1990, c.103 (C.39:3-10.20) relating to a violation of section
44 5 of P.L.1990, c.103 (C.39:3-10.13), the provisions of section 19 of
45 P.L.1954, c.236 (C.12:7-34.19) or the provisions of section 3 of
46 P.L.1952, c.157 (C.12:7-46), any person convicted of operating a

1 motor vehicle, commercial motor vehicle or vessel while under the
2 influence of liquor or drugs shall be assessed \$50.00.

3 (d) In addition to any term or condition that may be included in an
4 agreement for supervisory treatment pursuant to N.J.S.2C:43-13 or
5 imposed as a term or condition of conditional discharge pursuant to
6 N.J.S.2C:36A-1, a participant in either program shall be required to
7 pay an assessment of \$50.00.

8 (3) All assessments provided for in this section shall be collected
9 as provided in section 3 of P.L.1979, c.396 (C.2C:46-4) and the court
10 shall so order at the time of sentencing. When a defendant who is
11 sentenced to incarceration in a State correctional facility has not, at
12 the time of sentencing, paid an assessment for the crime for which he
13 is being sentenced or an assessment imposed for a previous crime, the
14 court shall specifically order the Department of Corrections to collect
15 the assessment during the period of incarceration and to deduct the
16 assessment from any income the inmate receives as a result of labor
17 performed at the institution or on any work release program or from
18 any personal account established in the institution for the benefit of the
19 inmate. All moneys collected, whether in part or in full payment of
20 any assessment imposed pursuant to this section, shall be forwarded
21 monthly by the parties responsible for collection, together with a
22 monthly accounting on forms prescribed by the Victims of Crime
23 Compensation Board pursuant to section 19 of P.L.1991, c.329
24 (C.52:4B-8.1), to the Victims of Crime Compensation Board.

25 (4) The Victims of Crime Compensation Board shall forward
26 monthly all moneys received from assessments collected pursuant to
27 this section to the State Treasury for deposit as follows:

28 (a) Of moneys collected on assessments imposed pursuant to
29 paragraph a. (1):

30 (i) the first \$72.00 collected for deposit in the Victims of Crime
31 Compensation Board Account,

32 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
33 and Revenue Collection Fund,

34 (iii) the next \$25.00 collected for deposit in the Victim Witness
35 Advocacy Fund, and

36 (iv) moneys collected in excess of \$100.00 for deposit in the
37 Victims of Crime Compensation Board Account;

38 (b) Of moneys collected on assessments imposed pursuant to
39 paragraph a. (2) (a), (c) or (d):

40 (i) the first \$39.00 collected for deposit in the Victims of Crime
41 Compensation Board Account,

42 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
43 and Revenue Collection Fund, and

44 (iii) the next \$8.00 collected for deposit in the Victim and Witness
45 Advocacy Fund;

1 (c) Of moneys collected on assessments imposed pursuant to
2 paragraph a. (2) (b):

3 (i) the first \$17.00 for deposit in the Victims of Crime
4 Compensation Board Account, and

5 (ii) the next \$3.00 collected for deposit in the Criminal Disposition
6 and Revenue Collection Fund, and

7 (iii) the next \$10.00 for deposit in the Victim and Witness
8 Advocacy Fund, and

9 (iv) moneys collected in excess of \$30.00 for deposit in the Victims
10 of Crime Compensation Board Account.

11 (5) The Victims of Crime Compensation Board shall provide the
12 Attorney General with a monthly accounting of moneys received,
13 deposited and identified as receivable, on forms prescribed pursuant
14 to section 19 of P.L.1991, c.329 (C.52:4B-8.1).

15 (6) (a) The Victims of Crime Compensation Board Account shall
16 be a separate, nonlapsing, revolving account that shall be administered
17 by the Victims of Crime Compensation Board. All moneys deposited
18 in that Account shall be used in satisfying claims pursuant to the
19 provisions of the "Criminal Injuries Compensation Act of 1971,"
20 P.L.1971, c.317 (C.52:4B-1 et seq.) and for related administrative
21 costs.

22 (b) The Criminal Disposition and Revenue Collection Fund shall be
23 a separate, nonlapsing, revolving account that shall be administered by
24 the Victims of Crime Compensation Board. All moneys deposited in
25 that Fund shall be used as provided in section 19 of P.L.1991, c.329
26 (C.52:4B-8.1).

27 (c) The Victim and Witness Advocacy Fund shall be a separate,
28 nonlapsing, revolving fund and shall be administered by the Division
29 of Criminal Justice, Department of Law and Public Safety and all
30 moneys deposited in that Fund pursuant to this section shall be used
31 for the benefit of victims and witnesses of crime as provided in section
32 20 of P.L.1991, c.329 (C.52:4B-43.1) and for related administrative
33 costs.

34 b. (Deleted by amendment, P.L.1991, c.329).

35 c. (Deleted by amendment, P.L.1991, c.329).

36 d. (Deleted by amendment, P.L.1991, c.329).

37 (cf: P.L.1995, c.135, s.1)

38

39 5. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read
40 as follows:

41 6. a. (Deleted by amendment, P.L.1997, c.151.)

42 b. There is created a New Jersey Merit Rating Plan which shall
43 apply to all drivers and shall include, but not be limited to, the
44 following provisions

45 (1) (a) Plan surcharges shall be levied, beginning on or after
46 January 1, 1984, by the New Jersey Motor Vehicle Commission

1 (hereafter the "commission") established by section 4 of P.L.2003,
2 c.13 (C.39:2A-4) on any driver who, in the preceding 36-month
3 period, has accumulated six or more motor vehicle points, as provided
4 in Title 39 of the Revised Statutes; except that the allowance for a
5 reduction of points in Title 39 of the Revised Statutes shall not apply
6 for the purpose of determining surcharges under this paragraph. The
7 accumulation of points shall be calculated as of the date the point
8 violation is posted to the driver history record and shall be levied
9 pursuant to rules promulgated by the commission. Surcharges
10 assessed pursuant to this paragraph shall be \$100.00 for six points, and
11 \$25.00 for each additional point. No offense shall be selected for
12 billing which occurred prior to February 10, 1983. No offense shall be
13 considered for billing in more than three annual assessments

14 (b) (Deleted by amendment, P.L.1984, c.1.)

15 (2) Plan surcharges shall be levied for convictions (a) under
16 R.S.39:4-50 for violations occurring on or after February 10, 1983,
17 and under section 2 of P.L. , c. (C.) (now pending before
18 the Legislature as this bill) and (b) under section 2 of P.L.1981, c.512
19 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a
20 substantially similar nature to those under R.S.39:4-50, section 2 of
21 P.L. , c. (C.) (now pending before the Legislature as this
22 bill), or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations
23 occurring on or after January 26, 1984. Except as hereinafter
24 provided, surcharges under this paragraph shall be levied annually for
25 a three-year period, and shall be \$1,000.00 per year for each of the
26 first two convictions, for a total surcharge of \$3,000 for each
27 conviction, and \$1,500.00 per year for the third conviction occurring
28 within a three-year period, for a total surcharge of \$4,500 for the third
29 conviction. If a driver is convicted under **[both]** either R.S.39:4-50 or
30 section 2 of P.L. , c. (C.) (now pending before the
31 Legislature as this bill) and section 2 of P.L.1981, c.512
32 (C.39:4-50.4a) for offenses arising out of the same incident, the driver
33 shall be assessed only one surcharge for the two offenses.

34 If, upon written notification from the commission or its designee,
35 mailed to the last address of record with the commission, a driver fails
36 to pay a surcharge levied under this subsection, the driving privilege
37 of the driver shall be suspended forthwith until the minimum payment
38 requirement as set forth by rule by the commission is paid to the
39 commission; except that the commission may authorize payment of the
40 surcharge on an installment basis over a period not to exceed
41 12 months for assessments under \$2,300 or 24 months for assessments
42 of \$2,300 or more. If a driver fails to pay the surcharge or any
43 installments on the surcharge, the total surcharge shall become due
44 immediately, except as otherwise prescribed by rule of the commission.

45 The commission may authorize any person to pay the surcharge
46 levied under this section by use of a credit card, debit card or other

1 electronic payment device, and the administrator is authorized to
2 require the person to pay all costs incurred by the commission in
3 connection with the acceptance of the credit card, debit card or other
4 electronic payment device. If a surcharge or related administrative fee
5 is paid by credit or debit cards or any other electronic payment device
6 and the amount is subsequently reversed by the credit card company
7 or bank, the driving privilege of the surcharged driver shall be
8 suspended and the driver shall be subject to the fee imposed for
9 dishonored checks pursuant to section 31 of P.L.1994, c.60
10 (C.39:5-36.1).

11 In addition to any other remedy provided by law, the commission
12 is authorized to utilize the provisions of the SOIL (Set off of
13 Individual Liability) program established pursuant to P.L.1981, c.239
14 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section
15 that is unpaid on or after the effective date of this act. As an additional
16 remedy, the commission may issue a certificate to the Clerk of the
17 Superior Court stating that the person identified in the certificate is
18 indebted under this surcharge law in such amount as shall be stated in
19 the certificate. The certificate shall reference the statute under which
20 the indebtedness arises. Thereupon the clerk to whom such certificate
21 shall have been issued shall immediately enter upon the record of
22 docketed judgments the name of such person as debtor; the State as
23 creditor; the address of such person, if shown in the certificate; the
24 amount of the debt so certified; a reference to the statute under which
25 the surcharge is assessed, and the date of making such entries. The
26 docketing of the entries shall have the same force and effect as a civil
27 judgment docketed in the Superior Court, and the commission shall
28 have all the remedies and may take all of the proceedings for the
29 collection thereof which may be had or taken upon the recovery of a
30 judgment in an action, but without prejudice to any right of appeal.
31 Upon entry by the clerk of the certificate in the record of docketed
32 judgments in accordance with this provision, interest in the amount
33 specified by the court rules for post-judgment interest shall accrue
34 from the date of the docketing of the certificate, however payment of
35 the interest may be waived by the commission or its designee. In the
36 event that the surcharge remains unpaid following the issuance of the
37 certificate of debt and the commission takes any further collection
38 action including referral of the matter to the Attorney General or his
39 designee, the fee imposed, in lieu of the actual cost of collection, may
40 be 20 percent of surcharges of \$1,000 or more. The administrator or
41 his designee may establish a sliding scale, not to exceed a maximum
42 amount of \$200, for surcharge principal amounts of less than \$1,000
43 at the time the certificate of debt is forwarded to the Superior Court
44 for filing. The commission shall provide written notification to a
45 driver of the proposed filing of the certificate of debt at least 10 days
46 prior to the proposed filing; such notice shall be mailed to the driver's

1 last address of record with the commission. If a certificate of debt is
2 satisfied following a credit card payment, debit card payment or
3 payment by other electronic payment device and that payment is
4 reversed, a new certificate of debt shall be filed against the surcharged
5 driver unless the original is reinstated.

6 If the administrator or his designee approves a special payment plan
7 for repayment of the certificate of debt, and the driver is complying
8 with the approved plan, the plan may be continued for any new
9 surcharge not part of the certificate of debt.

10 All moneys collectible under this subsection b. shall be billed and
11 collected by the commission except as provided in P.L.1997, c.280
12 (C.2B:19-10 et al.) for the collection of unpaid surcharges.
13 Commencing on September 1, 1996, or such earlier time as the
14 Commissioner of Banking and Insurance shall certify to the State
15 Treasurer that amounts on deposit in the New Jersey Automobile
16 Insurance Guaranty Fund are sufficient to satisfy the current and
17 anticipated financial obligations of the New Jersey Automobile Full
18 Insurance Underwriting Association, all plan surcharges collected by
19 the commission under this subsection b. shall be remitted to the
20 Division of Motor Vehicles Surcharge Fund for transfer to the Market
21 Transition Facility Revenue Fund, as provided in section 12 of
22 P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of
23 P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market
24 Transition Facility bonds, notes and obligations and all Motor Vehicle
25 Commission bonds, notes and obligations issued pursuant to that
26 section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are
27 discharged and no longer outstanding. From the date of certification
28 by the Commissioner of Banking and Insurance that the moneys
29 collectible under this subsection are no longer needed to fund the
30 association or at such a time as all Market Transition Facility bonds,
31 notes and obligations issued pursuant to section 4 of P.L.1994, c.57
32 (C.34:1B-21.4) and the costs thereof are discharged and no longer
33 outstanding moneys collectible under this subsection shall, subject to
34 appropriation, be remitted to the New Jersey Property-Liability
35 Insurance Guaranty Association created pursuant to section 6 of
36 P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans
37 made by that association to the New Jersey Automobile Insurance
38 Guaranty Fund pursuant to paragraph (10) of subsection a. of section
39 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments
40 shall be subject to and dependent upon appropriation by the State
41 Legislature.

42 (3) In addition to any other authority provided in P.L.1983, c.65
43 (C.17:29A-33 et al.), the commissioner, after consultation with the
44 commission, is specifically authorized (a) (Deleted by amendment,
45 P.L.1994, c.64), (b) to impose, in accordance with paragraph (1)(a) of
46 this subsection, surcharges for motor vehicle violations or convictions

1 for which motor vehicle points are not assessed under Title 39 of the
2 Revised Statutes, or (c) to reduce the number of points for which
3 surcharges may be assessed below the level provided in paragraph
4 (1)(a) of this subsection, except that the dollar amount of all
5 surcharges levied under the New Jersey Merit Rating Plan shall be
6 uniform on a Statewide basis for each filer, without regard to
7 classification or territory. Surcharges adopted by the commissioner on
8 or after January 1, 1984 for motor vehicle violations or convictions for
9 which motor vehicle points are not assessable under Title 39 of the
10 Revised Statutes shall not be retroactively applied but shall take effect
11 on the date of the New Jersey Register in which notice of adoption
12 appears or the effective date set forth in that notice, whichever is later.

13 c. No motor vehicle violation surcharges shall be levied on an
14 automobile insurance policy issued or renewed on or after January 1,
15 1984, except in accordance with the New Jersey Merit Rating Plan,
16 and all surcharges levied thereunder shall be assessed, collected and
17 distributed in accordance with subsection b. of this section.

18 d. (Deleted by amendment, P.L.1990, c.8.)

19 e. The Commissioner of Banking and Insurance and the
20 commission as may be appropriate, shall adopt any rules and
21 regulations necessary or appropriate to effectuate the purposes of this
22 section.

23 (cf: P.L.2003, c.13, s.31)

24

25 6. Section 25 of P.L.1990, c.8 (C.17:33B-13) is amended to read
26 as follows:

27 25. As used in sections 25 through 33 of [this 1990 amendatory
28 and supplementary act] P.L.1990, c.8 (C.17:33B-1 et al.):

29 "Automobile" means an automobile as defined in section 2 of
30 P.L.1972, c.70 (C.39:6A-2).

31 "Automobile insurance" means insurance for an automobile
32 including coverage for bodily injury liability and property damage
33 liability, comprehensive and collision coverages, uninsured and
34 underinsured motorist coverage, personal injury protection coverage,
35 additional personal injury protection coverage and any other
36 automobile insurance required by law.

37 "Commissioner" means the Commissioner of Insurance.

38 "Declination" means:

39 a. Refusal by an insurance agent to submit an application on behalf
40 of an applicant to any of the insurers represented by the agent;

41 b. Refusal by an insurer to issue an automobile insurance policy to
42 an eligible person upon receipt of an application for automobile
43 insurance;

44 c. The offer of automobile insurance coverage with less favorable
45 terms or conditions than those requested by an eligible person; or

1 d. The refusal by an insurer or agent to provide, upon the request
2 of an eligible person, an application form or other means of making an
3 application or request for automobile insurance coverage.

4 "Automobile insurance eligibility points" means points calculated
5 under the schedule promulgated by the commissioner pursuant to
6 section 26 of this act.

7 "Eligible person" means a person who is an owner or registrant of
8 an automobile registered in this State or who holds a valid New Jersey
9 driver's license to operate an automobile, but does not include any
10 person:

11 a. Who, during the three-year period immediately preceding
12 application for, or renewal of, an automobile insurance policy has been
13 convicted pursuant to R.S.39:4-50, section 2 of P.L. _____, c. _____
14 (C. _____)(now pending before the Legislature as this bill), or section
15 2 of P.L.1981, c.512 (C.39:4-50.4a), or for an offense of a
16 substantially similar nature committed in another jurisdiction; has been
17 convicted of a crime of the first, second or third degree resulting from
18 the use of a motor vehicle; or has been convicted of theft of a motor
19 vehicle;

20 b. Whose driver's license to operate an automobile is under
21 suspension or revocation;

22 c. Who has been convicted, within the five-year period immediately
23 preceding application for or renewal of a policy of automobile
24 insurance, of fraud or intent to defraud involving an insurance claim
25 or an application for insurance; or who has been successfully denied,
26 within the immediately preceding five years, payment by an insurer of
27 a claim in excess of \$1,000 under an automobile insurance policy, if
28 there was evidence of fraud or intent to defraud involving the
29 automobile insurance claim or application;

30 d. Whose policy of automobile insurance has been canceled
31 because of nonpayment of premium or financed premium within the
32 immediately preceding two-year period, unless the premium due on a
33 policy for which application has been made is paid in full before
34 issuance or renewal of the policy;

35 e. Who fails to obtain or maintain membership or qualification for
36 membership in a club, group, or organization, if membership is a
37 uniform requirement of the insurer as a condition of providing
38 insurance, and if the dues or charges, if any, or other conditions for
39 membership or qualifications for membership are applied uniformly
40 throughout this State, are not expressed as a percentage of the
41 insurance premium, and do not vary with respect to the rating
42 classification of the member or potential member except for the
43 purpose of offering a membership fee to family units. Membership
44 fees, if applicable, may vary in accordance with the amount or type of
45 coverage if the purchase of additional coverage, either as to type or
46 amount, is not a condition for reduction of dues or fees;

1 f. Whose driving record for the three year period immediately
2 preceding application for or renewal of a policy of automobile
3 insurance has an accumulation of automobile insurance eligibility
4 points as determined under the schedule promulgated by the
5 commissioner pursuant to section 26 of [this act] P.L.1990, c.8
6 (C.17:33B-14); or

7 g. Who possesses such other risk factors as determined to be
8 relevant by rule or regulation of the commissioner.

9 "Insurance agent" or "agent" means an insurance agent as defined
10 by subsection f. of section 2 of P.L.1987, c.293 (C.17:22A-2) and
11 shall also include an insurance broker as defined by subsection g. of
12 section 2 of P.L.1987, c.293 (C.17:22A-2) who has a brokerage
13 relationship with an insurer.

14 "Insurer" means any insurer authorized or admitted to write
15 automobile insurance in this State, but does not include the New
16 Jersey Automobile Full Insurance Underwriting Association created
17 pursuant to sections 13 through 34 of P.L.1983, c.65 (C.17:30E-1 et
18 seq.) or any residual market mechanism implemented pursuant to
19 section 1 of P.L.1970, c.215 (C.17:29D-1).

20 (cf: P.L.1990, c.8, s.25)

21

22 7. Section 2 of P.L.1991, c.452 (C.27:5F-37) is amended to read
23 as follows:

24 2. To qualify for certification as an instructor of the motorcycle
25 safety education course established pursuant to section 1 of P.L.1991,
26 c.452 (C.27:5F-36), a person shall:

27 a. be the holder of a motorcycle operator's license or endorsement
28 issued by any state;

29 b. have at least two years of motorcycle riding experience;

30 c. have no record of a suspension or revocation of his driver's
31 license or motorcycle license or endorsement during the past two
32 years;

33 d. have no convictions for violating the provisions of R.S.39:4-50
34 or section 2 of P.L. , c. (C.) (now pending before the
35 Legislature as this bill) during the past five years;

36 e. have accumulated no more than four points assessed against his
37 driver's license or motorcycle license or endorsement by the director
38 for motor vehicle offenses during the past two years;

39 f. be the holder of a current Motorcycle Safety Foundation
40 certification as a motorcycle instructor; and

41 g. meet such other requirements as the Director of the Office of
42 Highway Traffic Safety may deem appropriate and necessary.

43 Any person who meets the requirements set forth in this section
44 may apply to the Director of the Office of Highway Traffic Safety to
45 be certified as a motorcycle safety education instructor. The
46 application shall be in writing and contain such information as the

1 director shall require. No certification fee shall be charged by the
2 director. A certification so issued shall be valid during such period as
3 the instructor meets the requirements of subsections a. through g. of
4 this section.

5 A person who holds a valid instructor's license issued pursuant to
6 section 5 of P.L.1951, c.216 (C.39:12-5) may apply to the Director of
7 the Division of Motor Vehicles for a motorcycle safety education
8 instructor endorsement as provided for in section 5 of P.L.1951, c.216
9 (C.39:12-5).

10 (cf: P.L.1991, c.452, s.2)

11

12 8. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to read
13 as follows:

14 11. The board may order the payment of compensation in
15 accordance with the provisions of this act for personal injury or death
16 which resulted from:

17 a. an attempt to prevent the commission of crime or to arrest a
18 suspected criminal or in aiding or attempting to aid a police officer so
19 to do, or

20 b. the commission or attempt to commit any of the following
21 offenses:

22 (1) aggravated assault;

23 (2) (Deleted by amendment, P.L.1995, c.135).

24 (3) threats to do bodily harm;

25 (4) lewd, indecent, or obscene acts;

26 (5) indecent acts with children;

27 (6) kidnapping;

28 (7) murder;

29 (8) manslaughter;

30 (9) aggravated sexual assault, sexual assault, aggravated criminal
31 sexual contact, criminal sexual contact;

32 (10) any other crime involving violence including domestic
33 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
34 section 3 of P.L.1991, c.261 (C.2C:25-19);

35 (11) burglary;

36 (12) tampering with a cosmetic, drug or food product; or

37 c. the commission of a violation of R.S.39:4-50, section 2 of
38 P.L. _____, c. _____ (C. _____) (now pending before the Legislature as this
39 bill), section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of
40 P.L.1954, c.236 (C.12:7-34.19) or section 3 of P.L.1952, c.157
41 (C.12:7-46); or

42 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law
43 enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
44 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
45 of N.J.S.2C:20-10 where injuries to the victim occur in the course of
46 operating an automobile in furtherance of the offense.

1 (cf: P.L.1995, c.135, s.4)

2 9. R.S.39:3-10 is amended to read as follows:

3 39:3-10. No person shall drive a motor vehicle on a public highway
4 in this State unless the person is under supervision while participating
5 in a behind-the-wheel driving course pursuant to section 6 of
6 P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated
7 permit, or a provisional or basic driver's license issued to him in
8 accordance with this article.

9 No person under 18 years of age shall be issued a basic license to
10 drive motor vehicles, nor shall a person be issued a validated permit,
11 including a validated examination permit, until he has passed a
12 satisfactory examination and other requirements as to his ability as an
13 operator. The examination shall include a test of the applicant's vision,
14 his ability to understand traffic control devices, his knowledge of safe
15 driving practices and of the effects that ingestion of alcohol or drugs
16 has on a person's ability to operate a motor vehicle, his knowledge of
17 such portions of the mechanism of motor vehicles as is necessary to
18 insure the safe operation of a vehicle of the kind or kinds indicated by
19 the applicant and of the laws and ordinary usages of the road. No
20 person shall sit for an examination for any permit without exhibiting
21 photo identification deemed acceptable by the commission, unless that
22 person is a high school student participating in a course of driving
23 education approved by the State Department of Education and
24 conducted in a public, parochial or private school of this State,
25 pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1). The
26 commission may waive the written law knowledge examination for any
27 person 18 years of age or older possessing a valid driver's license
28 issued by any other state, the District of Columbia or the United States
29 Territories of American Samoa, Guam, Puerto Rico or the Virgin
30 Islands. The commission shall be required to provide that person with
31 a booklet that highlights those motor vehicle laws unique to New
32 Jersey. A road test shall be required for a provisional license and
33 serve as a demonstration of the applicant's ability to operate a vehicle
34 of the class designated. No person shall sit for a road test unless that
35 person exhibits photo identification deemed acceptable by the
36 commission. A high school student who has completed a course of
37 behind-the-wheel automobile driving education approved by the State
38 Department of Education and conducted in a public, parochial or
39 private school of this State, who has been issued a special learner's
40 permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to
41 January 1, 2003, shall not be required to exhibit photo identification
42 in order to sit for a road test. The commission may waive the road
43 test for any person 18 years of age or older possessing a valid driver's
44 license issued by any other state, the District of Columbia or the
45 United States Territories of American Samoa, Guam, Puerto Rico or
46 the Virgin Islands. The road test shall be given on public streets,

1 where practicable and feasible, but may be preceded by an off-street
2 screening process to assess basic skills. The commission shall approve
3 locations for the road test which pose no more than a minimal risk of
4 injury to the applicant, the examiner and other motorists. No new
5 locations for the road test shall be approved unless the test can be
6 given on public streets.

7 The commission shall issue a basic driver's license to operate a
8 motor vehicle other than a motorcycle to a person over 18 years of age
9 who previously has not been licensed to drive a motor vehicle in this
10 State or another jurisdiction only if that person has: (1) operated a
11 passenger automobile in compliance with the requirements of this title
12 for not less than one year, not including any period of suspension or
13 postponement, from the date of issuance of a provisional license
14 pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been
15 assessed more than two motor vehicle points; (3) not been convicted
16 in the previous year for a violation of R.S.39:4-50, section 2 of P.L. .
17 c. (C. _____) (now pending before the Legislature as this bill);
18 section 2 of P.L.1981, c.512 (C.39:4-50.4a), P.L.1992, c.189
19 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, subsection c. of
20 N.J.S.2C:12-1, or any other motor vehicle-related violation the
21 commission determines to be significant and applicable pursuant to
22 regulation; and (4) passed an examination of his ability to operate a
23 motor vehicle pursuant to this section.

24 The commission shall expand the driver's license examination by
25 20%. The additional questions to be added shall consist solely of
26 questions developed in conjunction with the State Department of
27 Health and Senior Services concerning the use of alcohol or drugs as
28 related to highway safety. The commission shall develop in
29 conjunction with the State Department of Health and Senior Services
30 supplements to the driver's manual which shall include information
31 necessary to answer any question on the driver's license examination
32 concerning alcohol or drugs as related to highway safety.

33 Up to 20 questions may be added to the examination on subjects to
34 be determined by the commission that are of particular relevance to
35 youthful drivers, after consultation with the Director of the Office of
36 Highway Traffic Safety.

37 The commission shall expand the driver's license examination to
38 include a question asking whether the applicant is aware of the
39 provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161
40 (C.26:6-57 et seq.) and the procedure for indicating on the driver's
41 license the intention to make a donation of body organs or tissues
42 pursuant to P.L.1978, c.181 (C.39:3-12.2).

43 Any person applying for a driver's license to operate a motor
44 vehicle or motorized bicycle in this State shall surrender to the
45 commission any current driver's license issued to him by another state
46 or jurisdiction upon his receipt of a driver's license for this State. The

1 commission shall refuse to issue a driver's license if the applicant fails
2 to comply with this provision. An applicant for a permit or license
3 who is less than 18 years of age, and who holds a permit or license for
4 a passenger automobile issued by another state or country that is valid
5 or has expired within a time period designated by the commission,
6 shall be subject to the permit and license requirements and penalties
7 applicable to State permit and license applicants who are of the same
8 age; except that if the other state or country has permit or license
9 standards substantially similar to those of this State, the credentials of
10 the other state or country shall be acceptable.

11 The commission shall create classified licensing of drivers covering
12 the following classifications:

13 a. Motorcycles, except that for the purposes of this section,
14 motorcycle shall not include any three-wheeled motor vehicle equipped
15 with a single cab with glazing enclosing the occupant, seats similar to
16 those of a passenger vehicle or truck, seat belts and automotive
17 steering.

18 b. Omnibuses as classified by R.S.39:3-10.1 and school buses
19 classified under N.J.S.18A:39-1 et seq.

20 c. (Deleted by amendment, P.L.1999, c.28).

21 d. All motor vehicles not included in classifications a. and b. A
22 license issued pursuant to this classification d. shall be referred to as
23 the "basic driver's license."

24 Every applicant for a license under classification b. shall be a holder
25 of a basic driver's license. Any issuance of a license under
26 classification b. shall be by endorsement on the basic driver's license.

27 A driver's license for motorcycles may be issued separately, but if
28 issued to the holder of a basic driver's license, it shall be by
29 endorsement on the basic driver's license.

30 The commission, upon payment of the lawful fee and after it or a
31 person authorized by it has examined the applicant and is satisfied of
32 the applicant's ability as an operator, may, in its discretion, issue a
33 license to the applicant to drive a motor vehicle. The license shall
34 authorize him to drive any registered vehicle, of the kind or kinds
35 indicated, and shall expire, except as otherwise provided, on the last
36 day of the 48th calendar month following the calendar month in which
37 such license was issued.

38 The commission may, at its discretion and for good cause shown,
39 issue licenses which shall expire on a date fixed by it. If the
40 commission issues a license to a person who has demonstrated
41 authorization to be present in the United States for a period of time
42 shorter than the standard period of the license, the commission shall
43 fix the expiration date of the license at a date based on the period in
44 which the person is authorized to be present in the United States under
45 federal immigration laws. The commission may renew such a license
46 only if it is demonstrated that the person's continued presence in the

1 United States is authorized under federal law. The fee for licenses
2 with expiration dates fixed by the commission shall be fixed by the
3 commission in amounts proportionately less or greater than the fee
4 herein established.

5 The required fee for a license for the 48-month period shall be as
6 follows:

7 Motorcycle license or endorsement: \$18.

8 Omnibus or school bus endorsement: \$18.

9 Basic driver's license: \$18.

10 The commission shall waive the payment of fees for issuance of
11 omnibus endorsements whenever an applicant establishes to the
12 commission's satisfaction that said applicant will use the omnibus
13 endorsement exclusively for operating omnibuses owned by a
14 nonprofit organization duly incorporated under Title 15 or 16 of the
15 Revised Statutes or Title 15A of the New Jersey Statutes.

16 The commission shall issue licenses for the following license period
17 on and after the first day of the calendar month immediately preceding
18 the commencement of such period, such licenses to be effective
19 immediately.

20 All applications for renewals of licenses shall be made in a manner
21 prescribed by the commission and in accordance with procedures
22 established by it.

23 The commission in its discretion may refuse to grant a permit or
24 license to drive motor vehicles to a person who is, in its estimation,
25 not a proper person to be granted such a permit or license, but no
26 defect of the applicant shall debar him from receiving a permit or
27 license unless it can be shown by tests approved by the commission
28 that the defect incapacitates him from safely operating a motor vehicle.

29 In addition to requiring an applicant for a driver's license to submit
30 satisfactory proof of identity and age, the commission also shall
31 require the applicant to provide, as a condition for obtaining a permit
32 and license, satisfactory proof that the applicant's presence in the
33 United States is authorized under federal law.

34 If the commission has reasonable cause to suspect that any
35 document presented by an applicant as proof of identity, age or legal
36 residency is altered, false or otherwise invalid, the commission shall
37 refuse to grant the permit or license until such time as the document
38 may be verified by the issuing agency to the commission's satisfaction.

39 A person violating this section shall be subject to a fine not
40 exceeding \$500 or imprisonment in the county jail for not more than
41 60 days, but if that person has never been licensed to drive in this
42 State or any other jurisdiction, he shall be subject to a fine of not less
43 than \$200 and, in addition, the court shall issue an order to the
44 commission requiring the commission to refuse to issue a license to
45 operate a motor vehicle to the person for a period of not less than 180
46 days. The penalties provided for by this paragraph shall not be

1 applicable in cases where failure to have actual possession of the
2 operator's license is due to an administrative or technical error by the
3 commission.

4 Nothing in this section shall be construed to alter or extend the
5 expiration of any license issued prior to the date this amendatory and
6 supplementary act becomes operative.

7 (cf: P.L.2003, c.13, s.37)

8

9 10. Section 12 of P.L.1990, c.103 (C.39:3-10.20) is amended to
10 read as follows:

11 12. a. In addition to any other penalty provided by law, a court
12 shall suspend for not less than one year nor more than three years the
13 commercial motor vehicle driving privilege of a person for a first
14 violation of:

15 (1) R.S.39:4-50 or section 2 of P.L. , c. (C.) (now
16 pending before the Legislature as this bill) if the motor vehicle was a
17 commercial motor vehicle or section 5 of [this act] P.L.1990, c.103
18 (C.39:3-10.13).

19 (2) R.S.39:4-129 if the motor vehicle was a commercial motor
20 vehicle operated by the person.

21 (3) Using a commercial motor vehicle in the commission of any
22 "crime" as defined in subsection a., c., or d. of N.J.S.2C:1-4.

23 (4) Refusal to submit to a chemical test under section 2 of
24 P.L.1966, c.142 (C.39:4-50.2) or section 16 of [this act] P.L.1990,
25 c.103 (C.39:3-10.24) if the motor vehicle was a commercial motor
26 vehicle.

27 (5) Paragraph (1) of subsection b. of section 10 of this act

28 b. If a first violation of any of the violations specified in subsection
29 a. of this section takes place while transporting hazardous material or
30 takes place in a vehicle displaying a hazardous material placard, the
31 court shall suspend the commercial motor vehicle driving privilege of
32 the person for three years.

33 c. Subject to the provisions of subsection d. of this section, the
34 court shall revoke for life the commercial motor vehicle driving
35 privilege of a person for a second or subsequent violation of any of the
36 offenses specified in subsection a. or any combination of those
37 offenses arising from two or more separate incidents.

38 d. The director may issue rules and regulations establishing
39 guidelines, including conditions under which a revocation of
40 commercial motor vehicle driving privilege for life under subsection c.
41 may be reduced to a period of not less than 10 years.

42 e. Notwithstanding any other provision of law to the contrary, a
43 court shall revoke for life the commercial motor vehicle driving
44 privilege of a person who uses a commercial motor vehicle in the
45 commission of a crime involving the manufacture, distribution, or
46 dispensing of a controlled substance or controlled substance analog,

1 or possession with intent to manufacture, distribute, or dispense a
2 controlled substance or controlled substance analog. A revocation
3 under this subsection shall not be subject to reduction in accordance
4 with subsection d. of this section.

5 f. A court shall suspend the commercial motor vehicle driving
6 privilege of a person for a period of not less than 60 days if the person
7 is convicted of a serious traffic violation and that conviction
8 constitutes the second serious traffic violation committed in a
9 commercial motor vehicle in this or any other state arising from
10 separate incidents occurring within a three year period. A court shall
11 suspend the commercial motor vehicle driving privilege for 120 days
12 if the conviction constitutes the third or subsequent serious traffic
13 violation committed in a commercial motor vehicle in this or any other
14 state arising from separate incidents occurring within a three year
15 period.

16 g. After suspending, revoking, or cancelling a commercial motor
17 vehicle driving privilege, a court shall make a report to the director
18 within three days in such form as the director may require. The
19 director shall notify the Commercial Driver License Information
20 System of the suspension, revocation, or cancellation. In the case of
21 non-residents, the director also shall notify the licensing authority of
22 the state which issued the commercial driver license or the state where
23 the person is domiciled. The director shall provide these notices
24 within 10 days after the suspension, revocation, cancellation, or
25 disqualification.

26 h. The director shall in accordance with this section suspend a
27 commercial motor vehicle driving privilege of a person holding, or
28 required to hold, a commercial driver license issued by this State if the
29 person is convicted in another state or foreign jurisdiction of an
30 offense of a substantially similar nature to the offenses specified in
31 subsection a., e., or f. of this section. For purposes of this section, a
32 violation such as driving while intoxicated, driving under the influence,
33 or driving while ability is impaired shall be considered substantially
34 similar offenses. For purposes of this section, a violation committed
35 in another state but substantially similar to those enumerated in
36 subsection a. of this section committed in this State shall be included.

37 i. Notwithstanding any other provision of law to the contrary, a
38 conviction under this section, or section 5 or 16 of this act, shall not
39 merge with a conviction for a violation of R.S.39:4-50, section 2 of
40 P.L. , c. (C.) (now pending before the Legislature as this
41 bill), or section 2 of P.L.1966, c.142 (C.39:4-50.2).
42 (cf: P.L.1990, c.103, s.12)

43

44 11. Section 16 of P.L.1990, c.103 (C.39:3-10.24) is amended to
45 read as follows:

46 16. a. A person who operates a commercial motor vehicle on a

1 public road, street, or highway, or quasi-public area in this State, shall
2 be deemed to have given his consent to the taking of samples of his
3 breath for the purposes of making chemical tests to determine alcohol
4 concentration; provided, however, that the taking of samples shall be
5 made in accordance with the provisions of this act and at the request
6 of a police officer who has reasonable grounds to believe that the
7 person has been operating a commercial motor vehicle with an alcohol
8 concentration of 0.04% or more.

9 b. A record of the taking of such a sample, disclosing the date and
10 time thereof, as well as the result of a chemical test, shall be made and
11 a copy thereof, upon request, shall be furnished or made available to
12 the person so tested.

13 c. In addition to the samples taken and tests made at the direction
14 of a police officer hereunder, the person tested shall be permitted to
15 have such samples taken and chemical tests of his breath, urine, or
16 blood made by a person or physician of his own selection.

17 d. The police officer shall inform the person tested of his rights
18 under subsections b. and c. of this section.

19 e. No chemical test, as provided in this section, or specimen
20 necessary thereto, may be made or taken forcibly and against physical
21 resistance thereto by the defendant. The police officer shall, however,
22 inform the person arrested of the consequences of refusing to submit
23 to such test including the penalties under section 12 of [this act]
24 P.L.1990, c.103 (C.39:3-10.20). A standard statement, prepared by
25 the director, shall be read by the police officer to the person.

26 f. The court shall revoke for six months the right to operate any
27 motor vehicle of any person who, after being arrested for a violation
28 of section 5 of [this act] P.L.1990, c.103 (C.39:3-10.13), shall refuse
29 to submit to the chemical test provided for in this section when
30 requested to do so, unless the refusal was in connection with a
31 subsequent offense under this section, section 5 of [this act]
32 P.L.1990, c.103 (C.39:3-10.13), R.S.39:4-50, section 2 of P.L. ____,
33 c. ____ (C. ____) (now pending before the Legislature as this bill), or
34 section 2 of P.L.1981, c.512 (C.39:4-50.4a), in which case the
35 revocation period shall be for two years. In addition, a court shall
36 impose the penalties provided in section 12 of [this act] P.L.1990,
37 c.103 (C.39:3-10.20).

38 The court shall determine by a preponderance of the evidence
39 whether the arresting officer had probable cause to believe that the
40 person had been operating or was in actual physical control of a
41 commercial motor vehicle on the public highways or quasi-public areas
42 of this State with an alcohol concentration at 0.04% or more, whether
43 the person was placed under arrest, whether he refused to submit to
44 the test upon request of the officer, and if these elements of the
45 violation are not established, no conviction shall issue. In addition to
46 any other requirements provided by law, a person whose driving

1 privilege is revoked for refusing to submit to a chemical test shall
2 satisfy the requirements of a program of alcohol education or
3 rehabilitation pursuant to the provisions of R.S.39:4-50. The
4 revocation shall be independent of any revocation imposed by virtue
5 of a conviction under the provisions of R.S.39:4-50, section 2 of
6 P.L. , c. (C.) (now pending before the Legislature as this
7 bill) or section 12 of this act.

8 In addition to imposing a revocation under this subsection, a court
9 shall impose a fine of not less than \$250 or more than \$500.
10 (cf: P.L.1990, c.103, s.16)

11

12 12. R.S.39:3-13 is amended to read as follows:

13 39:3-13. The director may, in his discretion, issue to a person over
14 17 years of age an examination permit, under the hand and seal of the
15 director, allowing such person, for the purpose of fitting himself to
16 become a licensed driver, to operate a designated class of motor
17 vehicles other than passenger automobiles and motorcycles of persons
18 licensed to operate motorcycles only for a specified period of not more
19 than 90 days, while in the company and under the supervision of a
20 driver licensed to operate such designated class of motor vehicles.

21 The director, in his discretion, may issue for a specified period of
22 not less than one year a passenger automobile or motorcycle-only
23 examination permit to a person over 17 years of age regardless of
24 whether a person has completed a course of behind-the-wheel
25 automobile driving education pursuant to section 1 of P.L.1950, c.127
26 (C.39:3-13.1). An examination permit applicant who is under 18 years
27 of age shall obtain the signature of a parent or guardian for submission
28 to the division on a form prescribed by the director. The director shall
29 postpone for six months the driving privileges of any person who
30 submits a fraudulent signature for a parent or guardian.

31 For six months immediately following the validation of an
32 examination permit, and until the holder passes the road test, the
33 holder who is less than 21 years of age shall operate the passenger
34 automobile or motorcycle only when accompanied by, and under the
35 supervision of, a New Jersey licensed driver who is at least 21 years
36 of age and has been licensed to drive a passenger automobile or
37 motorcycle, as the case may be, for not less than three years. The
38 holder of an examination permit who is at least 21 years of age shall
39 operate the passenger automobile or motorcycle for the first three
40 months under such supervision and until the holder passes the road
41 test. The supervising driver of the passenger automobile shall sit in the
42 front seat of the vehicle. Whenever operating a vehicle while in
43 possession of an examination permit, the holder of the permit shall
44 operate the passenger automobile with only one additional passenger
45 in the vehicle excluding persons with whom the holder resides, except
46 that this passenger restriction shall not apply when either the permit

1 holder or one other passenger is at least 21 years of age. Further, the
2 holder of the permit who is less than 21 years of age shall not drive
3 during the hours between 12:01 a.m. and 5 a.m.; provided, however,
4 that this condition may be waived for an emergency which, in the
5 judgment of local police, is of sufficient severity and magnitude to
6 substantially endanger the health, safety, welfare or property of a
7 person, or for any bona fide employment or religion-related activity if
8 the employer or appropriate religious authority provides written
9 verification of such activity in a manner provided for by the director.
10 The holder of the examination permit shall not use any interactive
11 wireless communication device, except in an emergency, while
12 operating a moving passenger automobile on a public road or highway.
13 "Use" shall include, but not be limited to, talking or listening on any
14 interactive wireless communication device or operating its keys,
15 buttons or other controls. The passenger automobile permit holder
16 shall ensure that all occupants of the vehicle are secured in a properly
17 adjusted and fastened seat belt or child restraint system.

18 When notified by a court of competent jurisdiction that an
19 examination permit holder has been convicted of a violation which
20 causes the permit holder to accumulate more than two motor vehicle
21 points or has been convicted of a violation of R.S.39:4-50; section 2
22 of P.L. _____, c. (C. _____) (now pending before the Legislature as this
23 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
24 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
25 N.J.S.2C:12-1 or any other motor vehicle-related law the director
26 deems significant and applicable pursuant to regulation, in addition to
27 any other penalty that may be imposed, the director shall, without the
28 exercise of discretion or a hearing, suspend the examination permit
29 holder's examination permit for 90 days. The director shall restore the
30 permit following the term of the permit suspension if the permit holder
31 satisfactorily completes a remedial training course of not less than four
32 hours which may be given by the division, a drivers' school licensed by
33 the director pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) or
34 any Statewide safety organization approved by the director. The
35 course shall be subject to oversight by the division according to its
36 guidelines. The permit holder shall also remit a course fee prior to the
37 commencement of the course. The director also shall postpone
38 without the exercise of discretion or a hearing the issuance of a basic
39 license for 90 days if the director is notified by a court of competent
40 jurisdiction that the examination permit holder, after completion of the
41 remedial training course, has been convicted of any motor vehicle
42 violation which results in the imposition of any motor vehicle points
43 or has been convicted of a violation of R.S.39:4-50; section 2 of
44 P.L. _____, c. (C. _____) (now pending before the Legislature as this
45 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.182
46 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5, subsection c. of

1 N.J.S.2C:12-1 or any other motor vehicle-related law the director
2 deems significant and applicable pursuant to regulation. When the
3 director is notified by a court of competent jurisdiction that an
4 examination permit holder has been convicted of any alcohol or
5 drug-related offense unrelated to the operation of a motor vehicle and
6 is not otherwise subject to any other suspension penalty therefor, the
7 director shall, without the exercise of discretion or a hearing, suspend
8 the examination permit for six months.

9 An examination permit for a motorcycle or a commercial motor
10 vehicle issued to a handicapped person, as determined by the Division
11 of Motor Vehicles after consultation with the Department of
12 Education, shall be valid for nine months or until the completion of the
13 road test portion of his license examination, whichever period is
14 shorter.

15 Each permit shall be sufficient license for the person to operate
16 such designated class of motor vehicles in this State during the period
17 specified, while in the company of and under the control of a driver
18 licensed by this State to operate such designated class of motor
19 vehicles, or, in the case of a commercial driver license permit, while in
20 the company of and under the control of a holder of a valid
21 commercial driver license for the appropriate license class and with the
22 appropriate endorsements issued by this or any other state. Such
23 person, as well as the licensed driver, except for a motor vehicle
24 examiner administering a driving skills test, shall be held accountable
25 for all violations of this subtitle committed by such person while in the
26 presence of the licensed driver. In addition to requiring an applicant
27 for an examination permit to submit satisfactory proof of identity and
28 age, the director also shall require the applicant to provide, as a
29 condition for obtaining the permit, satisfactory proof that the
30 applicant's presence in the United States is authorized under federal
31 law. If the director has reasonable cause to suspect that any document
32 presented by an applicant as proof of identity, age or legal residency
33 is altered, false or otherwise invalid, the director shall refuse to grant
34 the permit until such time as the document may be verified by the
35 issuing agency to the director's satisfaction.

36 The holder of an examination permit shall be required to take a road
37 test in order to obtain a provisional license. No road test for any
38 person who has been issued an examination permit to operate a
39 passenger vehicle shall be given unless the person has met the
40 requirements of this section. No road test for a provisional license
41 shall be given unless the applicant has first secured an examination
42 permit and no such road test shall be scheduled for an applicant who
43 has secured an examination permit for a passenger vehicle or a
44 motorcycle for which an endorsement is not required until at least six
45 months for an applicant under 21 years of age or three months for an
46 applicant 21 years of age or older shall have elapsed following the

1 validation of the examination permit for practice driving or, in the case
2 of an examination permit for other vehicles, until 20 days have
3 elapsed. In the case of an omnibus endorsement or school bus, no
4 road test shall be scheduled until at least 10 days shall have elapsed.
5 Every applicant for an examination permit to qualify for an omnibus
6 endorsement or an articulated vehicle endorsement shall be a holder of
7 a valid basic driver's license.

8 The required fees for special learners' permits and examination
9 permits shall be as follows:

10 Basic driver's license.....	up to \$10
11 Motorcycle license or endorsement.....	\$ 5
12 Omnibus or school bus endorsement.....	\$25
13 Articulated vehicle endorsement.....	\$15

14 The director shall waive the payment of fees for issuance of
15 examination permits for omnibus endorsements whenever the applicant
16 establishes to the director's satisfaction that said applicant will use the
17 omnibus endorsement exclusively for operating omnibuses owned by
18 a nonprofit organization duly incorporated under Title 15 or 16 of the
19 Revised Statutes or Title 15A of the New Jersey Statutes.

20 The specified period for which a permit is issued may be extended
21 for not more than an additional 60 days, without payment of added
22 fee, upon application made by the holder thereof, where the holder has
23 applied to take the examination for a driver's license prior to the
24 expiration of the original period for which the permit was issued and
25 the director was unable to schedule an examination during said period.
26 (cf: P.L.2001, c.420, s.6.)

27
28 13. Section 6 of P.L.1977, c.25 (C.39:3-13.2a) is amended to read
29 as follows:

30 6. a. Any person to whom a special learner's permit has been
31 issued pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1), upon
32 successful completion of a State approved written examination, eye
33 examination and an approved minimum six-hour behind-the-wheel
34 driving course, shall be entitled to retain the special learner's permit in
35 his own possession. The special learner's permit shall be validated by
36 the division for the purpose of driving a motor vehicle on a public
37 highway in this State after the holder has successfully met the
38 necessary examination requirements, and upon the successful
39 completion of a behind-the-wheel driving course. Such person may
40 operate a motor vehicle of the class for which a basic driver's license
41 is required except during the hours between 11:01 p.m. and 5:00 a.m.
42 while in the company and under the supervision, from the front
43 passenger seat, of a licensed motor vehicle driver of this State who is
44 over 21 years of age and has been licensed to drive a passenger
45 automobile for at least three years. Such special permit shall be valid
46 until such person's seventeenth birthday or until he qualifies for a

1 provisional license. Except during an instructional period of a
2 behind-the-wheel driving course, the holder of a special permit shall
3 operate a passenger automobile with only the following passengers:
4 (1) the supervising passenger; (2) persons who share the permit
5 holder's residence; and (3) one additional passenger who does not
6 reside with the permit holder. The holder of the special learner's
7 permit shall not use any interactive wireless communication device,
8 except in an emergency, while operating a moving passenger
9 automobile on a public road or highway. "Use" shall include, but not
10 be limited to, talking or listening on any interactive wireless
11 communication device or operating its keys, buttons or other controls.
12 All occupants of the automobile shall be secured in a properly adjusted
13 and fastened seat belt or child restraint system.

14 b. When notified by a court of competent jurisdiction that a special
15 learner's permit holder has been convicted of a violation which causes
16 the permit holder to accumulate more than two motor vehicle points
17 or has been convicted of a violation of R.S.39:4-50; section 2 of
18 P.L. _____, c. (C. _____) (now pending before the Legislature as this
19 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
20 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of
21 N.J.S.2C:12-1 or any other motor vehicle-related law the director
22 determines to be significant and applicable pursuant to regulation, and
23 in addition to any other penalty that may be imposed, the director
24 shall, without the exercise of discretion or a hearing, suspend the
25 holder's special learner's permit for 90 days. The director shall restore
26 the permit following the term of the permit suspension if the permit
27 holder, regardless of age, satisfactorily completes a remedial training
28 course of not less than four hours which may be given by the division,
29 a drivers' school licensed by the director pursuant to section 2 of
30 P.L.1951, c.216 (C.39:12-2) or any statewide safety organization
31 approved by the director. The course shall be administered pursuant
32 to rules and regulations promulgated by the director and subject to
33 oversight by the division. The authority of the director to suspend,
34 revoke or deny issuance of an initial or renewal license to operate a
35 drivers' school or an instructor's license, and to assess fines, pursuant
36 to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to any violations
37 related to the administration of a remedial training course. The permit
38 holder shall also remit a course fee prior to the commencement of the
39 course. If, after completion of the remedial training course, the
40 director is notified by a court of competent jurisdiction that the special
41 learner's permit holder has been convicted of any motor vehicle
42 violation which results in the imposition of any motor vehicle points
43 or has been convicted of a violation of R.S.39:4-50; section 2 of
44 P.L. _____, c. (C. _____) (now pending before the Legislature as this
45 bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189
46 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; subsection c. of

1 N.J.S.2C:12-1 or any other motor vehicle-related law the director
2 deems significant and applicable pursuant to regulation, the director,
3 without the exercise of discretion or a hearing, shall also postpone the
4 issuance of a basic license for 90 days. When the director is notified
5 by a court of competent jurisdiction that a special learner's permit
6 holder has been convicted of any alcohol or drug-related offense
7 unrelated to the operation of a motor vehicle and he is not otherwise
8 subject to any other suspension penalty therefor, the director shall,
9 without the exercise of discretion or a hearing, suspend the special
10 learner's permit for six months.

11 (cf: P.L.2001, c.420, s.7)

12

13 14. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to read
14 as follows:

15 4. The holder of a special learner's permit shall be entitled to a
16 provisional driver's license (1) upon attaining the age of 17 years, (2)
17 upon the satisfactory completion of an approved behind-the-wheel
18 automobile driving education course as indicated upon the face of the
19 special permit over the signature of the principal of the school or the
20 person operating the drivers' school in which the course was
21 conducted,(3) upon the completion of six months' driving experience
22 with a validated special learner's permit in compliance with the
23 provisions of section 6 of P.L.1977, c.25 (C.39:3-13.2a) and (4) upon
24 passing the road test pursuant to R.S.39:3-10.

25 The holder of a provisional license shall be permitted to operate the
26 passenger automobile with only one additional passenger in the vehicle
27 besides persons with whom the holder resides, except that this
28 passenger restriction shall not apply when either the holder of the
29 provisional license or one other passenger is at least 21 years of age.
30 Further, the holder of the provisional license who is under 21 years of
31 age shall not drive during the hours between 12:01 a.m. and 5 a.m.;
32 provided however, that this condition may be waived for an emergency
33 which, in the judgment of local police, is of sufficient severity and
34 magnitude to substantially endanger the health, safety, welfare or
35 property of a person or for any bona fide employment or
36 religion-related activity if the employer or appropriate religious
37 authority provides written verification of such activity in a manner
38 provided for by the director. The holder of the provisional license
39 shall not use any interactive wireless communication device, except in
40 an emergency, while operating a moving passenger automobile on a
41 public road or highway. "Use" shall include, but not be limited to,
42 talking or listening on any interactive wireless communication device
43 or operating its keys, buttons or other controls. In addition, the holder
44 of the provisional license shall ensure that all occupants of the vehicle
45 are secured in a properly adjusted and fastened seat belt or child
46 restraint system. In addition to any other penalties provided under

1 law, the holder of a provisional license who accumulates more than
2 two motor vehicle points or is convicted of a violation of R.S.39:4-50;
3 section 2 of P.L. _____, c. _____ (C. _____) (now pending before the
4 Legislature as this bill); section 2 of P.L.1981, c.512 (C.39:4-50.4a);
5 P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5;
6 subsection c. of N.J.S.2C:12-1 or any other motor vehicle law the
7 director deems to be significant and applicable pursuant to regulation
8 shall, for the first violation, be required to satisfactorily complete a
9 remedial training course of not less than four hours which may be
10 given by the division, a drivers' school licensed by the director
11 pursuant to section 2 of P.L.1951, c.216 (C.39:12-2) or any Statewide
12 safety organization approved by the director. The course shall be
13 administered pursuant to rules and regulations promulgated by the
14 director and subject to oversight by the division. The authority of the
15 director to suspend, revoke or deny issuance of an initial or renewal
16 license to operate a drivers' school or an instructor's license, and to
17 assess fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall
18 apply to any violations related to the administration of a remedial
19 training course. The permit holder shall also remit a course fee prior
20 to the commencement of the course. When notified by a court of
21 competent jurisdiction that a provisional license holder has been
22 convicted of a second or subsequent violation, in addition to any other
23 penalties provided under law, the director shall, without the exercise
24 of discretion or a hearing, suspend the provisional license for three
25 months and shall postpone eligibility for a basic license for an
26 equivalent period. In addition, when the director is notified by a court
27 of competent jurisdiction that a provisional license holder has been
28 convicted of any alcohol or drug-related offense unrelated to the
29 operation of a motor vehicle, and he is not otherwise subject to any
30 other suspension penalty therefor, the director shall, without the
31 exercise of discretion or a hearing, suspend the provisional license for
32 six months.

33 A provisional license may be sent by mail and shall be clearly
34 identifiable and distinguishable in appearance from a basic license by
35 any name, mark, color or device deemed appropriate by the director.
36 (cf: P.L.2001, c.420, s.8)

37

38 15. Section 3 of P.L.1959, c.56 (C.39:3-33.5) is amended to read
39 as follows:

40 3. Except as provided for courtesy marks in section 2 of P.L.2000,
41 c.15 (C.39:3-33.5a), no particular identifying mark or special
42 organization license plate issued pursuant to P.L.1987, c.374
43 (C.39:3-27.35) may be issued to any applicant who:

44 (a) for the 10-year period next preceding the date of application for
45 a particular identifying mark or special organization license plate has
46 been convicted of a violation of [either section] R.S.39:4-50, section

1 2 of P.L. , c. (C.) (now pending before the Legislature as
2 this bill), [or section] R.S.39:4-96 [of this Title;], or section 2 of
3 P.L.1966, c.142 (C.39:4-50.2) or has been convicted of a violation of
4 a law of a substantially similar nature in another jurisdiction; or
5 (b) has been convicted of a violation of N.J.S.2C:11-5; or
6 (c) for the two-year period next preceding his application for a
7 particular identifying mark or a special organization license plate has
8 had his driving privileges in this State or in another jurisdiction
9 revoked or suspended for any reason whatsoever.
10 (cf: P.L.2000, c.15, s.1)

11

12 16. R.S.39:3-40 is amended to read as follows:

13 39:3-40. No person to whom a driver's license has been refused or
14 whose driver's license or reciprocity privilege has been suspended or
15 revoked, or who has been prohibited from obtaining a driver's license,
16 shall personally operate a motor vehicle during the period of refusal,
17 suspension, revocation, or prohibition.

18 No person whose motor vehicle registration has been revoked shall
19 operate or permit the operation of such motor vehicle during the
20 period of such revocation.

21 Except as provided in subsections i. and j. of this section, a person
22 violating this section shall be subject to the following penalties:

23 a. Upon conviction for a first offense, a fine of \$500.00 and, if that
24 offense involves the operation of a motor vehicle during a period when
25 the violator's driver's license is suspended for a violation of
26 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before
27 the Legislature as this bill or section 2 of P.L.1981, c.512
28 (C.39:4-50.4a), revocation of the violator's motor vehicle registration
29 privilege in accordance with the provisions of sections 2 through 6 of
30 P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

31 b. Upon conviction for a second offense, a fine of \$750.00,
32 imprisonment in the county jail for not more than five days and, if the
33 second offense involves the operation of a motor vehicle during a
34 period when the violator's driver's license is suspended and that second
35 offense occurs within five years of a conviction for that same offense,
36 revocation of the violator's motor vehicle registration privilege in
37 accordance with the provisions of sections 2 through 6 of P.L.1995,
38 c.286 (C.39:3-40.1 through C.39:3-40.5);

39 c. Upon conviction for a third offense or subsequent offense, a fine
40 of \$1,000.00, imprisonment in the county jail for 10 days. If the third
41 or a subsequent offense involves the operation of a motor vehicle
42 during a period when the violator's driver's license is suspended and
43 the third or subsequent offense occurs within five years of a conviction
44 for the same offense, revocation of the violator's motor vehicle
45 registration privilege shall be revoked in accordance with the
46 provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1

1 through C.39:3-40.5);

2 d. Upon conviction, the court shall impose or extend a period of
3 suspension not to exceed six months;

4 e. Upon conviction, the court shall impose a period of
5 imprisonment for not less than 45 days or more than 180 days, if while
6 operating a vehicle in violation of this section a person is involved in
7 an accident resulting in bodily injury to another person;

8 f. (1) Notwithstanding subsections a. through e., any person
9 violating this section while under suspension issued pursuant to section
10 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined
11 \$500.00, shall have his license to operate a motor vehicle suspended
12 for an additional period of not less than one year nor more than two
13 years, and may be imprisoned in the county jail for not more than 90
14 days.

15 (2) Notwithstanding the provisions of subsections a. through e. of
16 this section and paragraph (1) of this subsection, any person violating
17 this section under suspension issued pursuant to R.S.39:4-50, section
18 2 of P.L. , c. (C.) (now pending before the Legislature as
19 this bill, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85
20 (C.39:5-30a et seq.), shall be fined \$500, shall have his license to
21 operate a motor vehicle suspended for an additional period of not less
22 than one year or more than two years, and shall be imprisoned in the
23 county jail for not less than 10 days or more than 90 days.

24 (3) Notwithstanding the provisions of subsections a. through e. of
25 this section and paragraphs (1) and (2) of this subsection, a person
26 shall have his license to operate a motor vehicle suspended for an
27 additional period of not less than one year or more than two years,
28 which period shall commence upon the completion of any prison
29 sentence imposed upon that person, shall be fined \$500 and shall be
30 imprisoned for a period of 60 to 90 days for a first offense, imprisoned
31 for a period of 120 to 150 days for a second offense, and imprisoned
32 for 180 days for a third or subsequent offense, for operating a motor
33 vehicle while in violation of paragraph (2) of this subsection while:

34 (a) on any school property used for school purposes which is
35 owned by or leased to any elementary or secondary school or school
36 board, or within 1,000 feet of such school property;

37 (b) driving through a school crossing as defined in R.S.39:1-1 if
38 the municipality, by ordinance or resolution, has designated the school
39 crossing as such; or

40 (c) driving through a school crossing as defined in R.S.39:1-1
41 knowing that juveniles are present if the municipality has not
42 designated the school crossing as such by ordinance or resolution.

43 A map or true copy of a map depicting the location and boundaries
44 of the area on or within 1,000 feet of any property used for school
45 purposes which is owned by or leased to any elementary or secondary
46 school or school board produced pursuant to section 1 of P.L.1987,

1 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
2 (a) of this paragraph.

3 It shall not be relevant to the imposition of sentence pursuant to
4 subparagraph (a) or (b) of this paragraph that the defendant was
5 unaware that the prohibited conduct took place while on or within
6 1,000 feet of any school property or while driving through a school
7 crossing. Nor shall it be relevant to the imposition of sentence that no
8 juveniles were present on the school property or crossing zone at the
9 time of the offense or that the school was not in session;

10 g. In addition to the other applicable penalties provided under this
11 section, a person violating this section whose license has been
12 suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or
13 the regulations adopted thereunder, shall be fined \$3,000. The court
14 shall waive the fine upon proof that the person has paid the total
15 surcharge imposed pursuant to section 6 of P.L.1983, c.65
16 (C.17:29A-35) or the regulations adopted thereunder.
17 Notwithstanding the provisions of R.S.39:5-41, the fine imposed
18 pursuant to this subsection shall be collected by the Division of Motor
19 Vehicles pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and
20 distributed as provided in that section, and the court shall file a copy
21 of the judgment of conviction with the director and with the Clerk of
22 the Superior Court who shall enter the following information upon the
23 record of docketed judgments: the name of the person as judgment
24 debtor; the Division of Motor Vehicles as judgment creditor; the
25 amount of the fine; and the date of the order. These entries shall have
26 the same force and effect as any civil judgment docketed in the
27 Superior Court;

28 h. A person who owns or leases a motor vehicle and permits
29 another to operate the motor vehicle commits a violation and is subject
30 to suspension of his license to operate a motor vehicle and to
31 revocation of registration pursuant to sections 2 through 6 of
32 P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

33 (1) Knows that the operator's license to operate a motor vehicle
34 has been suspended for a violation of R.S.39:4-50, section 2 of P.L. .
35 c. (C.) (now pending before the Legislature as this bill or
36 section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

37 (2) Knows that the operator's license to operate a motor vehicle is
38 suspended and that the operator has been convicted, within the past
39 five years, of operating a vehicle while the person's license was
40 suspended or revoked;

41 i. If the violator's driver's license to operate a motor vehicle has
42 been suspended pursuant to section 9 of P.L.1985, c.14
43 (C.39:4-139.10), the violator shall be subject to a maximum fine of
44 \$100 upon proof that the violator has satisfied the parking ticket or
45 tickets that were the subject of the Order of Suspension;

46 j. If a person is convicted for a second or subsequent violation of

1 this section and the second or subsequent offense involves a motor
2 vehicle moving violation, the term of imprisonment for the second or
3 subsequent offense shall be 10 days longer than the term of
4 imprisonment imposed for the previous offense.

5 For the purposes of this subsection, a "motor vehicle moving
6 violation" means any violation of the motor vehicle laws of this State
7 for which motor vehicle points are assessed by the Director of the
8 Division of Motor Vehicles pursuant to section 1 of P.L.1982, c.43
9 (C.39:5-30.5).

10 (cf: P.L.2002, c.28, c.1)

11

12 17. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
13 as follows:

14 2. a. Any motor vehicle registration certificate and registration
15 plates shall be revoked if a person is convicted of violating the
16 provisions of:

17 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
18 during a period when that violator's driver's license has been
19 suspended for a violation of R.S.39:4-50 or section 2 of P.L. _____, c.
20 (C. _____) (now pending before the Legislature as this bill);

21 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
22 during a period when that violator's driver's license has been
23 suspended within a five-year period; or

24 (3) R.S.39:4-50 for a second **[or subsequent]** offense or section
25 2 of P.L. _____, c. (C. _____) (now pending before the Legislature as
26 this bill), if such revocation is ordered by the court as authorized under
27 **[that section]** those sections.

28 This revocation of registration certificate and registration plates
29 shall apply to all passenger automobiles and motorcycles owned or
30 leased by the violator and registered under the provisions of
31 R.S.39:3-4 and all noncommercial trucks owned or leased by the
32 violator and registered under the provisions of section 2 of P.L.1968,
33 c.439 (C.39:3-8.1), including those passenger automobiles,
34 motorcycles and noncommercial trucks registered or leased jointly in
35 the name of the violator and the other owner of record.

36 b. At the time of conviction, the court shall notify each violator
37 that the person's passenger automobile, motorcycle, and
38 noncommercial truck registrations are revoked. Notwithstanding the
39 provisions of R.S.39:5-35, the violator shall surrender the registration
40 certificate and registration plates of all passenger automobiles,
41 motorcycles, and noncommercial truck registrations subject to
42 revocation under the provisions of this section within 48 hours of the
43 court's notice. The surrender shall be at a place and in a manner
44 prescribed by the Director of the Division of Motor Vehicles pursuant
45 to rule and regulation. The court also shall notify the violator that a
46 failure to surrender that vehicle registration certificate and registration

1 plates shall result in the impoundment of the vehicle in accordance
2 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
3 the seizure of said registration certificate and registration plates. The
4 revocation authorized under the provisions of this subsection shall
5 remain in effect for the period during which the violator's license to
6 operate a motor vehicle is suspended and shall be enforced so as to
7 prohibit the violator from registering or leasing any other vehicle,
8 however acquired, during that period.

9 c. If the violator subject to the penalties set forth in subsections a.
10 and b. of this section for conviction of violating the provisions of
11 R.S.39:3-40 was operating a motor vehicle owned or leased by
12 another person and that other owner or lessee permitted that operation
13 with knowledge that the violator's driver's license was suspended, the
14 court shall suspend the person's license to operate a motor vehicle and
15 revoke the registration certificate and registration plates for that
16 vehicle for a period of not more than six months. Notwithstanding the
17 provisions of R.S.39:3-35, the owner or lessee shall surrender the
18 registration certificate and registration plates of that vehicle within 48
19 hours of the court's notice of revocation. The surrender shall be at a
20 place and in a manner prescribed by the Director of the Division of
21 Motor Vehicles pursuant to rule and regulation. The court also shall
22 notify the owner or lessee that a failure to surrender the revoked
23 registration certificate and registration plates shall result in the
24 impoundment of the vehicle in accordance with the provisions of
25 section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said
26 registration certificate and registration plates. Nothing in this
27 subsection shall be construed to limit the court from finding that
28 owner or lessee guilty of violating R.S.39:3-39 or any other such
29 statute concerning the operation of a motor vehicle by an unlicensed
30 driver.

31 (cf: P.L.2000, c.83, s.2)

32

33 18. Section 1 of P.L.1938, c.360 (C.39:4-9.1) is amended to read
34 as follows:

35 1. Whenever another State shall have enacted a law providing for
36 reciprocal exchange thereof, the director, upon receiving a certificate
37 of conviction of a nonresident operator or chauffeur of a violation of
38 the provisions of [sections] R.S.39:4-50, section 2 of P.L. , c.
39 (C.) (now pending before the Legislature as this bill),
40 R.S.39:4-96, R.S.39:4-98 [and] or R.S.39:4-129 [of the Revised
41 Statutes], or of notice of the forfeiture of any bond or collateral given
42 for such violation, shall transmit forthwith, a certified copy of such
43 record to the motor vehicle administrator of the State wherein the
44 person named in such record shall reside.

45 (cf: P.L.1951, c.23, s.10)

1 19. Section 1 of P.L.1981, c.97 (C.39:4-14.3g) is amended to read
2 as follows:

3 1. It is unlawful for any person to operate a motorized bicycle
4 while under the influence of intoxicating liquor, or a narcotic,
5 hallucinogenic or habit-producing drug. Any person who violates the
6 provisions of this act shall be subject to the same penalties as
7 provided in R.S.39:4-50 and section 2 of P.L. _____, c. _____
8 (now pending before the Legislature as this bill) for conviction of
9 operating a motor vehicle while under the influence of any such
10 substance. In any prosecution for a violation of this act, the
11 [presumptions,] consent and procedures set forth in P.L.1951, c.23,
12 s.30 (C.39:4-50.1) [and], sections 2 through 5 of P.L.1966, c.142[,
13 ss.2-5] (C.39:4-50.2 to 39:4-50.5) and section 2 of P.L.1981, c.512
14 (C.39:4-50.4a) shall be applicable.
15 (cf: P.L.1981, c.97, s.1)

16

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

18 39:4-50. (a) Except as provided in subsection (g) of this section,
19 a person who operates a motor vehicle while under the influence of
20 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,
21 or operates a motor vehicle with a blood alcohol concentration of
22 0.10% or more by weight of alcohol in the defendant's blood or
23 permits another person who is under the influence of intoxicating
24 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
25 motor vehicle owned by him or in his custody or control or permits
26 another to operate a motor vehicle with a blood alcohol concentration
27 of 0.10% or more by weight of alcohol in the defendant's blood shall
28 be subject:

29 (1) For the first offense, to a fine of not less than \$250.00 nor
30 more than \$400.00 and a period of detainment of not less than
31 12 hours nor more than 48 hours spent during two consecutive days
32 of not less than six hours each day and served as prescribed by the
33 program requirements of the Intoxicated Driver Resource Centers
34 established under subsection (f) of this section and, in the discretion
35 of the court, a term of imprisonment of not more than 30 days and
36 shall forthwith forfeit his right to operate a motor vehicle over the
37 highways of this State for a period of not less than six months nor
38 more than one year. For a first offense, a person also shall be subject
39 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

40 (2) For a second violation, a person shall be subject to a fine of not
41 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
42 the court to perform community service for a period of 30 days, which
43 shall be of such form and on such terms as the court shall deem
44 appropriate under the circumstances, and shall be sentenced to
45 imprisonment for a term of not less than 48 consecutive hours, which
46 shall not be suspended or served on probation, nor more than 90 days,

1 and shall forfeit his right to operate a motor vehicle over the highways
2 of this State for a period of two years upon conviction, and, after the
3 expiration of said period, he may make application to the Director of
4 the Division of Motor Vehicles for a license to operate a motor
5 vehicle, which application may be granted at the discretion of the
6 director, consistent with subsection (b) of this section. For a second
7 violation, a person also shall be required to install an ignition interlock
8 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
9 or shall have his registration certificate and registration plates revoked
10 for two years under the provisions of section 2 of P.L.1995, c.286
11 (C.39:3-40.1).

12 [(3) For a third or subsequent violation, a person shall be subject
13 to a fine of \$1,000.00, and shall be sentenced to imprisonment for a
14 term of not less than 180 days, except that the court may lower such
15 term for each day, not exceeding 90 days, served performing
16 community service in such form and on such terms as the court shall
17 deem appropriate under the circumstances and shall thereafter forfeit
18 his right to operate a motor vehicle over the highways of this State for
19 10 years.] For a third or subsequent violation, a person shall be
20 subject to the penalties set forth in section 2 of P.L. , c. (C.)
21 (now pending before the Legislature as this bill and also shall be
22 required to install an ignition interlock device under the provisions of
23 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
24 certificate and registration plates revoked for 10 years under the
25 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

26 As used in this section, the phrase "narcotic, hallucinogenic or
27 habit-producing drug" includes an inhalant or other substance
28 containing a chemical capable of releasing any toxic vapors or fumes
29 for the purpose of inducing a condition of intoxication, such as any
30 glue, cement or any other substance containing one or more of the
31 following chemical compounds: acetone and acetate, amyl nitrite or
32 amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite,
33 butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite
34 or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl
35 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl
36 alcohol, pentachlorophenol, petroleum ether, propyl nitrate or propyl
37 nitrate or their isomers, toluene, toluol or xylene or any other chemical
38 substance capable of causing a condition of intoxication, inebriation,
39 excitement, stupefaction or the dulling of the brain or nervous system
40 as a result of the inhalation of the fumes or vapors of such chemical
41 substance.

42 Whenever an operator of a motor vehicle has been involved in an
43 accident resulting in death, bodily injury or property damage, a police
44 officer shall consider that fact along with all other facts and
45 circumstances in determining whether there are reasonable grounds to
46 believe that person was operating a motor vehicle in violation of this

1 section.

2 A conviction of a violation of a law of a substantially similar nature
3 in another jurisdiction, regardless of whether that jurisdiction is a
4 signatory to the Interstate Driver License Compact pursuant to
5 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction
6 under this subsection unless the defendant can demonstrate by clear
7 and convincing evidence that the conviction in the other jurisdiction
8 was based exclusively upon a violation of a proscribed blood alcohol
9 concentration of less than 0.10%.

10 If the driving privilege of any person is under revocation or
11 suspension for a violation of any provision of this Title or Title 2C of
12 the New Jersey Statutes at the time of any conviction for a violation
13 of this section, the revocation or suspension period imposed shall
14 commence as of the date of termination of the existing revocation or
15 suspension period. In the case of any person who at the time of the
16 imposition of sentence is less than 17 years of age, the forfeiture,
17 suspension or revocation of the driving privilege imposed by the court
18 under this section shall commence immediately, run through the
19 offender's seventeenth birthday and continue from that date for the
20 period set by the court pursuant to paragraphs (1) [through (3)] or (2)
21 of this subsection. A court that imposes a term of imprisonment under
22 this section may sentence the person so convicted to the county jail,
23 to the workhouse of the county wherein the offense was committed,
24 to an inpatient rehabilitation program or to an Intoxicated Driver
25 Resource Center or other facility approved by the chief of the
26 Intoxicated Driving Program Unit in the Department of Health and
27 Senior Services; provided that for a third or subsequent offense a
28 person shall not serve a term of imprisonment at an Intoxicated Driver
29 Resource Center as provided in subsection (f).

30 A person who has been convicted of a previous violation of this
31 section need not be charged as a second or subsequent offender in the
32 complaint made against him in order to render him liable to the
33 punishment imposed by this section on a second or subsequent
34 offender, but if the second offense occurs more than 10 years after the
35 first offense, the court shall treat the second conviction as a first
36 offense for sentencing purposes [and if a third offense occurs more
37 than 10 years after the second offense, the court shall treat the third
38 conviction as a second offense for sentencing purposes].

39 (b) A person convicted under this section must satisfy the
40 screening, evaluation, referral, program and fee requirements of the
41 Division of Alcoholism and Drug Abuse's Intoxicated Driving Program
42 Unit, and of the Intoxicated Driver Resource Centers and a program
43 of alcohol and drug education and highway safety, as prescribed by the
44 Director of the Division of Motor Vehicles. The sentencing court shall
45 inform the person convicted that failure to satisfy such requirements
46 shall result in a mandatory two-day term of imprisonment in a county

1 jail and a driver license revocation or suspension and continuation of
2 revocation or suspension until such requirements are satisfied, unless
3 stayed by court order in accordance with the Rules Governing the
4 Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing,
5 the court shall forward to the Division of Alcoholism and Drug
6 Abuse's Intoxicated Driving Program Unit a copy of a person's
7 conviction record. A fee of \$100.00 shall be payable to the Alcohol
8 Education, Rehabilitation and Enforcement Fund established pursuant
9 to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
10 Intoxicated Driving Program Unit.

11 (c) Upon conviction of a violation of this section, the court shall
12 collect forthwith the New Jersey driver's license or licenses of the
13 person so convicted and forward such license or licenses to the
14 Director of the Division of Motor Vehicles. The court shall inform the
15 person convicted that if he is convicted of personally operating a
16 motor vehicle during the period of license suspension imposed
17 pursuant to subsection (a) of this section, he shall, upon conviction, be
18 subject to the penalties established in R.S.39:3-40. The person
19 convicted shall be informed orally and in writing. A person shall be
20 required to acknowledge receipt of that written notice in writing.
21 Failure to receive a written notice or failure to acknowledge in writing
22 the receipt of a written notice shall not be a defense to a subsequent
23 charge of a violation of R.S.39:3-40. In the event that a person
24 convicted under this section is the holder of any out-of-State driver's
25 license, the court shall not collect the license but shall notify forthwith
26 the director, who shall, in turn, notify appropriate officials in the
27 licensing jurisdiction. The court shall, however, revoke the
28 nonresident's driving privilege to operate a motor vehicle in this State,
29 in accordance with this section. Upon conviction of a violation of this
30 section, the court shall notify the person convicted, orally and in
31 writing, of the penalties for a second, third or subsequent violation of
32 this section. A person shall be required to acknowledge receipt of that
33 written notice in writing. Failure to receive a written notice or failure
34 to acknowledge in writing the receipt of a written notice shall not be
35 a defense to a subsequent charge of a violation of this section.

36 (d) The Director of the Division of Motor Vehicles shall
37 promulgate rules and regulations pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to
39 establish a program of alcohol education and highway safety, as
40 prescribed by this act.

41 (e) Any person accused of a violation of this section who is liable
42 to punishment imposed by this section as a second [or subsequent]
43 offender shall be entitled to the same rights of discovery as allowed
44 defendants pursuant to the Rules Governing the Courts of the State of
45 New Jersey.

46 (f) The counties, in cooperation with the Division of Alcoholism

1 and Drug Abuse and the Division of Motor Vehicles, but subject to the
2 approval of the Division of Alcoholism and Drug Abuse, shall
3 designate and establish on a county or regional basis Intoxicated
4 Driver Resource Centers. These centers shall have the capability of
5 serving as community treatment referral centers and as court monitors
6 of a person's compliance with the ordered treatment, service
7 alternative or community service. All centers established pursuant to
8 this subsection shall be administered by a counselor certified by the
9 Alcohol and Drug Counselor Certification Board of New Jersey or
10 other professional with a minimum of five years' experience in the
11 treatment of alcoholism. All centers shall be required to develop
12 individualized treatment plans for all persons attending the centers;
13 provided that the duration of any ordered treatment or referral shall
14 not exceed one year. It shall be the center's responsibility to establish
15 networks with the community alcohol and drug education, treatment
16 and rehabilitation resources and to receive monthly reports from the
17 referral agencies regarding a person's participation and compliance
18 with the program. Nothing in this subsection shall bar these centers
19 from developing their own education and treatment programs;
20 provided that they are approved by the Division of Alcoholism and
21 Drug Abuse.

22 Upon a person's failure to report to the initial screening or any
23 subsequent ordered referral, the Intoxicated Driver Resource Center
24 shall promptly notify the sentencing court of the person's failure to
25 comply.

26 Required detention periods at the Intoxicated Driver Resource
27 Centers shall be determined according to the individual treatment
28 classification assigned by the Intoxicated Driving Program Unit. Upon
29 attendance at an Intoxicated Driver Resource Center, a person shall be
30 required to pay a per diem fee of \$75.00 for the first offender program
31 or a per diem fee of \$100.00 for the second offender program, as
32 appropriate. Any increases in the per diem fees after the first full year
33 shall be determined pursuant to rules and regulations adopted by the
34 Commissioner of Health and Senior Services in consultation with the
35 Governor's Council on Alcoholism and Drug Abuse pursuant to the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.).

38 The centers shall conduct a program of alcohol and drug education
39 and highway safety, as prescribed by the Director of the Division of
40 Motor Vehicles.

41 The Commissioner of Health and Senior Services shall adopt rules
42 and regulations pursuant to the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.), in order to effectuate the
44 purposes of this subsection.

45 (g) When a violation of this section occurs while:

46 (1) on any school property used for school purposes which is

1 owned by or leased to any elementary or secondary school or school
2 board, or within 1,000 feet of such school property;

3 (2) driving through a school crossing as defined in R.S.39:1-1 if
4 the municipality, by ordinance or resolution, has designated the school
5 crossing as such; or

6 (3) driving through a school crossing as defined in R.S.39:1-1
7 knowing that juveniles are present if the municipality has not
8 designated the school crossing as such by ordinance or resolution, the
9 convicted person shall: for a first offense, be fined not less than \$500
10 or more than \$800, be imprisoned for not more than 60 days and have
11 his license to operate a motor vehicle suspended for a period of not
12 less than one year or more than two years; for a second offense, be
13 fined not less than \$1,000 or more than \$2,000, perform community
14 service for a period of 60 days, be imprisoned for not less than
15 96 consecutive hours, which shall not be suspended or served on
16 probation, nor more than 180 days, except that the court may lower
17 such term for each day, not exceeding 90 days, served performing
18 community service in such form and on such terms as the court shall
19 deem appropriate under the circumstances and have his license to
20 operate a motor vehicle suspended for a period of not less than four
21 years; and, for a third offense, be fined \$2,000, imprisoned for
22 180 days and have his license to operate a motor vehicle suspended for
23 a period of 20 years; the period of license suspension shall commence
24 upon the completion of any prison sentence imposed upon that person.

25 A map or true copy of a map depicting the location and boundaries
26 of the area on or within 1,000 feet of any property used for school
27 purposes which is owned by or leased to any elementary or secondary
28 school or school board produced pursuant to section 1 of P.L.1987,
29 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
30 of this subsection.

31 It shall not be relevant to the imposition of sentence pursuant to
32 paragraph (1) or (2) of this subsection that the defendant was unaware
33 that the prohibited conduct took place while on or within 1,000 feet
34 of any school property or while driving through a school crossing.
35 Nor shall it be relevant to the imposition of sentence that no juveniles
36 were present on the school property or crossing zone at the time of the
37 offense or that the school was not in session.

38 (h) A court also may order a person convicted pursuant to
39 subsection a. of this section, to participate in a supervised visitation
40 program as either a condition of probation or a form of community
41 service, giving preference to those who were under the age of 21 at
42 the time of the offense. Prior to ordering a person to participate in
43 such a program, the court may consult with any person who may
44 provide useful information on the defendant's physical, emotional and
45 mental suitability for the visit to ensure that it will not cause any injury
46 to the defendant. The court also may order that the defendant

1 participate in a counseling session under the supervision of the
2 Intoxicated Driving Program Unit prior to participating in the
3 supervised visitation program. The supervised visitation program shall
4 be at one or more of the following facilities which have agreed to
5 participate in the program under the supervision of the facility's
6 personnel and the probation department:

7 (1) a trauma center, critical care center or acute care hospital
8 having basic emergency services, which receives victims of motor
9 vehicle accidents for the purpose of observing appropriate victims of
10 drunk drivers and victims who are, themselves, drunk drivers;

11 (2) a facility which cares for advanced alcoholics or drug abusers,
12 to observe persons in the advanced stages of alcoholism or drug abuse;
13 or

14 (3) if approved by a county medical examiner, the office of the
15 county medical examiner or a public morgue to observe appropriate
16 victims of vehicle accidents involving drunk drivers.

17 As used in this section, "appropriate victim" means a victim whose
18 condition is determined by the facility's supervisory personnel and the
19 probation officer to be appropriate for demonstrating the results of
20 accidents involving drunk drivers without being unnecessarily
21 gruesome or traumatic to the defendant.

22 If at any time before or during a visitation the facility's supervisory
23 personnel and the probation officer determine that the visitation may
24 be or is traumatic or otherwise inappropriate for that defendant, the
25 visitation shall be terminated without prejudice to the defendant. The
26 program may include a personal conference after the visitation, which
27 may include the sentencing judge or the judge who coordinates the
28 program for the court, the defendant, defendant's counsel, and, if
29 available, the defendant's parents to discuss the visitation and its effect
30 on the defendant's future conduct. If a personal conference is not
31 practicable because of the defendant's absence from the jurisdiction,
32 conflicting time schedules, or any other reason, the court shall require
33 the defendant to submit a written report concerning the visitation
34 experience and its impact on the defendant. The county, a court, any
35 facility visited pursuant to the program, any agents, employees, or
36 independent contractors of the court, county, or facility visited
37 pursuant to the program, and any person supervising a defendant
38 during the visitation, are not liable for any civil damages resulting from
39 injury to the defendant, or for civil damages associated with the
40 visitation which are caused by the defendant, except for willful or
41 grossly negligent acts intended to, or reasonably expected to result in,
42 that injury or damage.

43 The Supreme Court may adopt court rules or directives to
44 effectuate the purposes of this subsection.

45 (i) In addition to any other fine, fee, or other charge imposed
46 pursuant to law, the court shall assess a person convicted of a

1 violation of the provisions of this section a surcharge of \$100, of
2 which amount \$50 shall be payable to the municipality in which the
3 conviction was obtained and \$50 shall be payable to the Treasurer of
4 the State of New Jersey for deposit into the General Fund.

5 (cf: P.L.2002, c.34, s.17)

6

7 21. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to read
8 as follows:

9 2. (a) Any person who operates a motor vehicle on any public
10 road, street or highway or quasi-public area in this State shall be
11 deemed to have given his consent to the taking of samples of his
12 breath for the purpose of making chemical tests to determine the
13 content of alcohol in his blood; provided, however, that the taking of
14 samples is made in accordance with the provisions of this act and at
15 the request of a police officer who has reasonable grounds to believe
16 that such person has been operating a motor vehicle in violation of the
17 provisions of R.S.39:4-50 or section 2 of P.L. , c. (C.)
18 (now pending before the Legislature as this bill).

19 (b) A record of the taking of any such sample, disclosing the date
20 and time thereof, as well as the result of any chemical test, shall be
21 made and a copy thereof, upon his request, shall be furnished or made
22 available to the person so tested.

23 (c) In addition to the samples taken and tests made at the direction
24 of a police officer hereunder, the person tested shall be permitted to
25 have such samples taken and chemical tests of his breath, urine or
26 blood made by a person or physician of his own selection.

27 (d) The police officer shall inform the person tested of his rights
28 under subsections (b) and (c) of this section.

29 (e) No chemical test, as provided in this section, or specimen
30 necessary thereto, may be made or taken forcibly and against physical
31 resistance thereto by the defendant. The police officer shall, however,
32 inform the person arrested of the consequences of refusing to submit
33 to such test in accordance with section 2 of [this amendatory and
34 supplementary act] P.L.1981, c.512 (C.39:4-50.4a). A standard
35 statement, prepared by the director, shall be read by the police officer
36 to the person under arrest.

37 (cf: P.L.1981, c.512, s.1)

38

39 22. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to
40 read as follows:

41 2. a. Except as provided in subsection b. of this section, the
42 municipal court shall revoke the right to operate a motor vehicle of
43 any operator who, after being arrested for a violation of R.S.39:4-50
44 or section 2 of P.L. , c. (C.) (now pending before the
45 Legislature as this bill), shall refuse to submit to a test provided for in
46 section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so,

1 for six months unless the refusal was in connection with a second
2 offense under this section, in which case the revocation period shall be
3 for two years or unless the refusal was in connection with [a third or
4 subsequent] an offense under [this] section 2 of P.L. _____, c.
5 (C. _____) (now pending before the Legislature as this bill) in which
6 case the revocation shall be for ten years. A conviction or
7 administrative determination of a violation of a law of a substantially
8 similar nature in another jurisdiction, regardless of whether that
9 jurisdiction is a signatory to the Interstate Driver License Compact
10 pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior
11 conviction under this section.

12 The municipal court shall determine by a preponderance of the
13 evidence whether the arresting officer had probable cause to believe
14 that the person had been driving or was in actual physical control of
15 a motor vehicle on the public highways or quasi-public areas of this
16 State while the person was under the influence of intoxicating liquor
17 or a narcotic, hallucinogenic, or habit-producing drug or marijuana;
18 whether the person was placed under arrest, if appropriate, and
19 whether he refused to submit to the test upon request of the officer;
20 and if these elements of the violation are not established, no conviction
21 shall issue. In addition to any other requirements provided by law, a
22 person whose operator's license is revoked for refusing to submit to a
23 test shall be referred to an Intoxicated Driver Resource Center
24 established by subsection (f.) of R.S.39:4-50 and shall satisfy the same
25 requirements of the center for refusal to submit to a test as provided
26 for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with
27 a first[,] or second[, third or subsequent] offense under this section
28 or an offense under section 2 of P.L. _____, c. (C. _____) (now pending
29 before the Legislature as this bill that must be satisfied by a person
30 convicted of a commensurate violation of this section, or be subject to
31 the same penalties as such a person for failure to do so. The
32 revocation shall be independent of any revocation imposed by virtue
33 of a conviction under the provisions of R.S.39:4-50.

34 In addition to issuing a revocation, except as provided in subsection
35 b. of this section, the municipal court shall fine a person convicted
36 under this section, a fine of not less than \$250.00 nor more than
37 \$500.00.

38 b. The fine imposed upon the convicted person shall be not less
39 than \$500 or more than \$1,000 and the period of license suspension
40 shall be one year for a first offense, four years for a second offense and
41 20 years for a third or subsequent offense, which period shall
42 commence upon the completion of any prison sentence imposed upon
43 that person when a violation of this section occurs while:

44 (1) on any school property used for school purposes which is
45 owned by or leased to any elementary or secondary school or school
46 board, or within 1,000 feet of such school property;

1 (2) driving through a school crossing as defined in R.S.39:1-1 if
2 the municipality, by ordinance or resolution, has designated the school
3 crossing as such; or

4 (3) driving through a school crossing as defined in R.S.39:1-1
5 knowing that juveniles are present if the municipality has not
6 designated the school crossing as such by ordinance or resolution.

7 A map or true copy of a map depicting the location and boundaries
8 of the area on or within 1,000 feet of any property used for school
9 purposes which is owned by or leased to any elementary or secondary
10 school or school board produced pursuant to section 1 of P.L.1997,
11 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
12 of this subsection.

13 It shall not be relevant to the imposition of sentence pursuant to
14 paragraph (1) or (2) of this subsection that the defendant was unaware
15 that the prohibited conduct took place while on or within 1,000 feet
16 of any school property or while driving through a school crossing.
17 Nor shall it be relevant to the imposition of sentence that no juveniles
18 were present on the school property or crossing zone at the time of the
19 offense or that the school was not in session.

20 (cf: P.L.1999, c.185, s.5)

21
22 23. Section 1 of P.L.1984, c.4 (C.39:4-50.8) is amended to read as
23 follows:

24 1. Upon a conviction of a violation of R.S.39:4-50, section 2 of
25 P.L. , c. (C.) (now pending before the Legislature as this
26 bill) or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall
27 collect from the defendant a surcharge of \$100.00 in addition to and
28 independently of any fine imposed on that defendant. The court shall
29 forward the surcharge to the Director of the Division of Motor
30 Vehicles who shall deposit \$95.00 of the surcharge into a "Drunk
31 Driving Enforcement Fund" (hereinafter referred to as the "fund").
32 This fund shall be used to establish a Statewide drunk driving
33 enforcement program to be supervised by the director. The remaining
34 \$5.00 of each surcharge shall be deposited by the director into a
35 separate fund for administrative expenses.

36 A municipality shall be entitled to periodic grants from the "Drunk
37 Driving Enforcement Fund" in amounts representing its proportionate
38 contribution to the fund. A municipality shall be deemed to have
39 contributed to the fund the portion of the surcharge allocated to the
40 fund, collected pursuant to this section if the violation of
41 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before
42 the Legislature as this bill) or section 2 of P.L.1981, c.512
43 (C.39:4-50.4a) occurred within the municipality and the arrest
44 resulting in conviction was made by the member of a municipal police
45 force. The grants from the fund shall be used by the municipality to
46 increase enforcement of R.S.39:4-50, section 2 of P.L. , c.

1 (C. _____) (now pending before the Legislature as this bill) by
2 subsidizing additional law enforcement patrols and through other
3 measures approved by the director. The Division of State Police,
4 interstate law enforcement agencies and county law enforcement
5 agencies shall be entitled to periodic grants from the fund in amounts
6 representing their proportionate contribution to the fund. The
7 Division of State Police or county or interstate law enforcement
8 agency shall be deemed to have contributed to the fund the portion
9 of the surcharge allocated to the fund collected pursuant to this
10 section if the arrest resulting in a conviction was made by a member of
11 the Division of State Police or county or interstate law enforcement
12 agency. The grants from the fund shall be used by the Division of
13 State Police or county or interstate law enforcement agency to
14 increase enforcement of R.S.39:4-50 and section 2 of P.L. ____, c. ____
15 (C. _____) (now pending before the Legislature as this bill) by
16 subsidizing additional law enforcement patrols and through other
17 measures approved by the director.

18 The surcharge described herein shall not be considered a fine,
19 penalty or forfeiture to be distributed pursuant to R.S.39:5-41.

20 The director shall promulgate rules and regulations in order to
21 effectuate the purposes of this section.

22 (cf: P.L.1994, c.184, s.3)

23

24 24. Section 1 of P.L.1992, c.189 (C.39:4-50.14) is amended to
25 read as follows:

26 1. Any person under the legal age to purchase alcoholic beverages
27 who operates a motor vehicle with a blood alcohol concentration of
28 0.01% or more, but less than 0.10%, by weight of alcohol in his blood,
29 shall forfeit his right to operate a motor vehicle over the highways of
30 this State or shall be prohibited from obtaining a license to operate a
31 motor vehicle in this State for a period of not less than 30 or more
32 than 90 days beginning on the date he becomes eligible to obtain a
33 license or on the day of conviction, whichever is later, and shall
34 perform community service for a period of not less than 15 or more
35 than 30 days.

36 In addition, the person shall satisfy the program and fee
37 requirements of an Intoxicated Driver Resource Center or participate
38 in a program of alcohol education and highway safety as prescribed by
39 the Director of the Division of Motor Vehicles.

40 The penalties provided under the provisions of this section shall be
41 in addition to the penalties which the court may impose under
42 N.J.S.2C:33-15, R.S.33:1-81, R.S.39:4-50 or section 2 of P.L. ____,
43 c. (C. _____) (now pending before the Legislature as this bill) or any
44 other law.

45 (cf: P.L.1992, c.189, s.1)

1 25. R.S.39:5-22 is amended to read as follows:

2 39:5-22. Where a license has been revoked for a violation of
3 [section] R.S. 39:4-50 [of this Title] or section 2 of P.L. , c.
4 (C.) (now pending before the Legislature as this bill), and an
5 appeal has been taken from the judgment, the appeal shall not operate
6 to restore the license during the pendency of the appeal, however, the
7 license may be restored either by the trial court or the appellate court
8 pending disposition of the appeal.
9 (cf: P.L.1965, c.237, s.1)

10

11 26. R.S.39:5-30 is amended to read as follows:

12 39:5-30. a. Every registration certificate, every license certificate,
13 every privilege to drive motor vehicles, including commercial motor
14 vehicles as defined in P.L.1990, c.103 (C.39:3-10.9 et al., every
15 endorsement, class of license, and commercial driver license, may be
16 suspended or revoked, and any person may be prohibited from
17 obtaining a driver's license or a registration certificate, or disqualified
18 from obtaining any class of or endorsement on a commercial driver
19 license, and the reciprocity privilege of any nonresident may be
20 suspended or revoked by the director for a violation of any of the
21 provisions of this Title or on any other reasonable grounds, after due
22 notice in writing of such proposed suspension, revocation,
23 disqualification or prohibition and the ground thereof.

24 He may also summon witnesses to appear before him at his office
25 or at any other place he designates, to give testimony in a hearing
26 which he holds looking toward a revocation of a license or registration
27 certificate issued by or under his authority. The summons shall be
28 served at least five days before the return date, either by registered
29 mail or personal service. A person who fails to obey the summons shall
30 be subject to a penalty not exceeding \$100.00, to be recovered with
31 costs in an action at law, prosecuted by the Attorney General, and in
32 addition the vehicle registration or driver's license, or both, as the case
33 may be, shall forthwith be revoked. The fee for witnesses required to
34 attend before the director shall be \$1.00 for each day's attendance and
35 \$0.03 for every mile of travel by the nearest generally traveled route
36 in going to and from the place where the attendance of the witness is
37 required. These fees shall be paid when the witness is excused from
38 further attendance, and the disbursements made from payment of the
39 fees shall be audited and paid in the manner provided for expenses of
40 the department. The actual conduct of said hearing may be delegated
41 by the director to such departmental employees as he may designate,
42 in which case the said employees shall recommend to the director in
43 writing whether the said licenses or certificates shall or shall not be
44 suspended or revoked.

45 b. Whenever a matter is presented to the director involving an
46 alleged violation of

1 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
2 authorized speed limit is alleged, and which has resulted in the death
3 of another;

4 (2) R.S.39:4-50 or section 2 of P.L. _____, c. (C. _____) (now
5 pending before the Legislature as this bill), and which has resulted in
6 the death of another;

7 (3) R.S.39:4-96, and which has resulted in the death of another; or

8 (4) R.S.39:4-129, wherein the death of another has occurred, and
9 the director has not determined to immediately issue a preliminary
10 suspension pursuant to subsection e. of this section, the director shall
11 issue a notice of proposed final suspension or revocation of any license
12 certificate or any nonresident reciprocity privilege to operate any
13 motor vehicle or motorized bicycle held by the individual charged or
14 temporary order prohibiting the individual from obtaining any license
15 to operate any motor vehicle or motorized bicycle in this State.

16 In the notice, the director shall provide the individual charged with
17 an opportunity for a plenary hearing to contest the proposed final
18 suspension, revocation or other final agency action. Unless the
19 division receives, no later than the 10th day from the date the notice
20 was mailed, a written request for hearing, the proposed final agency
21 action shall take effect on the date specified in the notice.

22 Upon receipt of a timely request for a plenary hearing, a preliminary
23 hearing shall be held by an administrative law judge within 15 days of
24 the receipt of the request. The preliminary hearing shall be for the
25 purpose of determining whether, pending a plenary hearing on the
26 proposed final agency action, a preliminary suspension shall be
27 immediately issued by the judge. Adjournment of such hearing upon
28 motion by the individual charged shall be given only for good cause
29 shown.

30 At the preliminary hearing, the parties shall proceed on the papers
31 submitted to the judge, including the summons, the police reports and
32 the charged individual's prior driving record submitted by the division,
33 and any brief affidavits permitted by the judge from persons who shall
34 be witnesses at the plenary hearing, and the parties may present oral
35 argument. Based on the papers, on any oral argument, on the
36 individual's prior driving record, and on the circumstances of the
37 alleged violation presented in the papers, the judge shall determine
38 whether the individual was properly charged with a violation of the
39 law and a death occurred; and, if so, whether in the interest of public
40 safety, a preliminary suspension shall be immediately ordered pending
41 the plenary hearing on the proposed suspension or revocation. The
42 administrative law judge shall transmit his findings to the director.

43 A plenary hearing shall be held no later than the 45th day following
44 the preliminary hearing. Adjournment of the hearing shall be given
45 only for good cause shown. If the hearing is otherwise postponed or
46 delayed solely at the instance of the individual charged, the

1 administrative law judge shall immediately issue a preliminary
2 suspension of any license certificate or any nonresident reciprocity
3 privilege held by the individual charged, or if any such preliminary
4 suspension or order is in effect, he shall continue such suspension or
5 order. Such preliminary suspension or temporary order shall remain
6 in effect pending a final agency decision on the matter. If the hearing
7 is otherwise postponed or delayed at the instance of anyone other than
8 the individual charged, the judge shall immediately issue an order
9 restoring the individual's license certificate or any nonresident
10 reciprocity privilege pending final agency decision in the matter. The
11 period of any preliminary suspension imposed under this section shall
12 be deducted from any suspension imposed by the final agency decision
13 in the matter.

14 c. Whenever any other matter is presented to the director involving
15 an alleged violation of this title, wherein the death of another occurred
16 and for which he determines immediate action is warranted, he may
17 proceed in the manner prescribed in subsection b. above.

18 d. Whenever a fatal accident occurs in this State, an investigation
19 of the incident, whether performed by the State Police or by local
20 police, shall be completed and forwarded to the director within
21 72 hours of the time of the accident.

22 e. Whenever a matter is presented to the director involving an
23 alleged violation of

24 (1) R.S.39:4-98, where an excess of 20 miles per hour over the
25 authorized speed limit is alleged, and which has resulted in the death
26 or serious bodily injury of another;

27 (2) R.S.39:4-50 or section 2 of P.L. _____, c. _____ (C. _____) (now
28 pending before the Legislature as this bill), which has resulted in the
29 death or serious bodily injury of another;

30 (3) R.S.39:4-96 or R.S.39:4-97, which has resulted in the death or
31 serious bodily injury of another; or

32 (4) R.S.39:4-129, wherein the death or serious bodily injury of
33 another has occurred, the director for good cause may, without
34 hearing, immediately issue a preliminary suspension of any license
35 certificate or any nonresident reciprocity privilege to operate any
36 motor vehicle or motorized bicycle held by an individual charged or
37 temporary order prohibiting the individual from obtaining any license
38 to operate any motor vehicle or motorized bicycle in this State. For
39 purposes of this subsection, "serious bodily injury" means bodily injury
40 which creates a substantial risk of death or which causes serious,
41 permanent disfigurement, or protracted loss or impairment of the
42 function of any bodily member or organ. Along with the notice of
43 preliminary suspension, the director shall issue a notice of proposed
44 final suspension, revocation or other final agency action, and shall
45 afford the individual the right to a preliminary hearing to contest the
46 preliminary suspension and a plenary hearing to contest the proposed

1 final agency action.

2 The preliminary suspension shall remain in effect pending a final
3 agency decision on the proposed final agency action, unless a request
4 for a preliminary hearing is received by the division no later than the
5 10th day from the date on which the notice was mailed. The proposed
6 final agency action shall take effect on the date specified in the notice
7 unless a request for a plenary hearing is received by the division no
8 later than the 10th day from the date on which the notice was mailed.

9 Upon timely request by the individual, a preliminary hearing shall
10 be held by an administrative law judge, no later than the 15th day from
11 the date on which the division receives the request. The preliminary
12 hearing shall be for the purpose of determining whether, pending a
13 final agency decision on the matter, the preliminary suspension issued
14 by the director shall remain in effect. Adjournment of the hearing shall
15 be given only for good cause shown. If the preliminary hearing is
16 otherwise postponed or delayed solely at the instance of someone
17 other than the individual charged, the judge shall immediately order
18 that the individual's license certificate or any nonresident reciprocity
19 privilege be restored pending the rescheduled preliminary hearing.

20 At the preliminary hearing, the parties shall proceed on the papers
21 submitted to the judge, including the summons, the police reports and
22 the charged individual's prior driving record submitted by the division,
23 and any brief affidavits permitted by the judge from persons who shall
24 be witnesses at the final hearing, and the parties may present oral
25 arguments. Based on the papers, on any oral argument, on the
26 individual's prior driving record, and on the circumstances of the
27 alleged violation presented in the papers, the judge shall immediately
28 determine whether the individual was properly charged with a violation
29 of the law and a death occurred; and, if so, whether in the interest of
30 public safety, the preliminary suspension shall be continued pending
31 the final agency decision on the matter. The administrative law judge
32 shall transmit his findings to the director.

33 Any plenary hearing to contest the proposed final agency action
34 shall conform to the requirements for a plenary hearing contained in
35 subsection b. of this section.

36 f. In addition to any other final agency action, the director shall
37 require any person whose privileges to operate a motor vehicle or
38 motorized bicycle are suspended or who has been prohibited from
39 obtaining a license, pursuant to this section, to be reexamined to
40 determine the person's ability to operate a motor vehicle or motorized
41 bicycle, prior to regaining or obtaining any driving privileges in this
42 State.

43 Any determination resulting from any preliminary or plenary hearing
44 held pursuant to subsection b., c., or e. of this section shall not be
45 admissible at any criminal or quasi-criminal proceedings on the alleged
46 violation or violations.

1 (cf: P.L.1990, c.103, s.33)

2 27. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to
3 read as follows:

4 14. a. Any person who, at the time of an automobile accident
5 resulting in injuries to that person, is required but fails to maintain
6 medical expense benefits coverage mandated by section 4 of P.L.1972,
7 c.70 (C.39:6A-4) or section 4 of P.L.1998, c.21 (C.39:6A-3.1) shall
8 have no cause of action for recovery of economic or noneconomic loss
9 sustained as a result of an accident while operating an uninsured
10 automobile.

11 b. Any person who is convicted of, or pleads guilty to, operating
12 a motor vehicle in violation of R.S.39:4-50, section 2 of P.L. , c.
13 (C.) (now pending before the Legislature as this bill), section
14 2 of P.L.1981, c.512 (C.39:4-50.4a), or a similar statute from any
15 other jurisdiction, in connection with an accident, shall have no cause
16 of action for recovery of economic or noneconomic loss sustained as
17 a result of the accident.

18 c. Any person acting with specific intent of causing injury to
19 himself or others in the operation or use of an automobile shall have
20 no cause of action for recovery of economic or noneconomic loss
21 sustained as a result of an accident arising from such conduct.

22 (cf: P.L.1998, c.21, s.8)

23

24 28. Section 6 of P.L.1995, c.142 (C.2A:15-5.14) is amended to
25 read as follows:

26 6. a. Before entering judgment for an award of punitive damages,
27 the trial judge shall ascertain that the award is reasonable in its amount
28 and justified in the circumstances of the case, in light of the purpose
29 to punish the defendant and to deter that defendant from repeating
30 such conduct. If necessary to satisfy the requirements of this section,
31 the judge may reduce the amount of or eliminate the award of punitive
32 damages.

33 b. No defendant shall be liable for punitive damages in any action
34 in an amount in excess of five times the liability of that defendant for
35 compensatory damages or \$350,000, whichever is greater.

36 c. The provisions of subsection b. of this section shall not apply to
37 causes of action brought pursuant to P.L.1993, c.137 (C.2A:53A-21
38 et seq.), P.L.1945, c.169 (C.10:5-1 et seq.), P.L.1989, c.303
39 (C.26:5C-5 et seq.) or P.L.1992, c.109 (C.2A:61B-1), or in cases in
40 which a defendant has been convicted pursuant to R.S.39:4-50,
41 section 2 of P.L. , c. (C.) (now pending before the Legislature
42 as this bill) or section 2 of P.L.1981, c.512 (C.39:4-50.4a).

43 (cf: P.L.1995, c.142, s.6)

44

45 29. Section 18 of P.L.1971, c.317 (C.52:4B-18) is amended to
46 read as follows:

1 18. No order for the payment of compensation shall be made under
2 section 10 of P.L.1971, c.317 (C.52:4B-10) unless the application has
3 been made within two years after the date of the personal injury or
4 death or after that date upon determination by the board that good
5 cause exists for the delayed filing, and the personal injury or death was
6 the result of an offense listed in section 11 of P.L.1971, c.317
7 (C.52:4B-11) which had been reported to the police or other
8 appropriate law enforcement agency within three months after its
9 occurrence or reasonable discovery. The board will make its
10 determination regarding the application within six months of
11 acknowledgment by the board of receipt of the completed application
12 and any and all necessary supplemental information.

13 In determining the amount of an award, the board shall determine
14 whether, because of his conduct, the victim of such crime contributed
15 to the infliction of his injury, and the board shall reduce the amount of
16 the award or reject the application altogether, in accordance with such
17 determination; provided, however, that the board shall not consider
18 any conduct of the victim contributory toward his injury, if the record
19 indicates such conduct occurred during efforts by the victim to prevent
20 a crime or apprehend a person who had committed a crime in his
21 presence or had in fact committed a crime.

22 The board may deny or reduce an award where the victim has not
23 paid in full any payments owed on assessments imposed pursuant to
24 section 2 of P.L.1979, c.396 (C.2C:43-3.1) or restitution ordered
25 following conviction for a crime.

26 No compensation shall be awarded if:

27 a. Compensation to the victim proves to be substantial unjust
28 enrichment to the offender or if the victim did not cooperate with the
29 reasonable requests of law enforcement authorities unless the victim
30 demonstrates a compelling health or safety reason for not cooperating;
31 or

32 b. (Deleted by amendment, P.L.1990, c.64.)

33 c. The victim was guilty of a violation of subtitle 10 or 12 of Title
34 2A or subtitle 2 of Title 2C of the New Jersey Statutes, which caused
35 or contributed to his injuries; or

36 d. The victim was injured as a result of the operation of a motor
37 vehicle, except as provided in subsection c. or d. of section 11 of
38 P.L.1971, c.317 (C.52:4B-11), boat or airplane unless the same was
39 used as a weapon in a deliberate attempt to run the victim down; or

40 e. The victim suffered personal injury or death while an occupant
41 of a motor vehicle or vessel where the victim knew or reasonably
42 should have known that the driver was operating the vehicle or vessel
43 in violation of R.S.39:4-50, section 2 of P.L. , c. (C.) (now
44 pending before the Legislature as this bill), section 5 of P.L.1990,
45 c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19),
46 section 3 of P.L.1952, c.157 (C.12:7-46), subparagraph (b) of

1 paragraph (2) of subsection b. of N.J.S.2C:20-2, subsection b. of
2 N.J.S.2C:29-2 or subsection b., c. or d. of N.J.S.2C:20-10; or

3 f. The victim has been convicted of a crime and is still incarcerated;
4 or

5 g. The victim sustained the injury during the period of incarceration
6 immediately following conviction for a crime.

7 Except as provided herein, no compensation shall be awarded under
8 this act in an amount in excess of \$25,000.00, and all payments shall
9 be made in a lump sum, except that in the case of death or protracted
10 disability the award may provide for periodic payments to compensate
11 for loss of earnings or support. Five years after the entry of an initial
12 determination order, a claim for compensation expires and no further
13 order is to be entered with regard to the claim except for requests for
14 payment of specific out-of-pocket expenses received by the Victims of
15 Crime Compensation Board prior to the expiration of the five-year
16 period except in those cases determined by the board to be
17 catastrophic in nature. No award made pursuant to this act shall be
18 subject to execution or attachment other than for expenses resulting
19 from the injury which is the basis of the claim.

20 Compensation may be awarded in an amount not exceeding the
21 actual cost of a rehabilitative service of the type enumerated in section
22 2 of P.L.1999, c.166 (C.52:4B-18.2).

23 The award may provide for periodic payments in the case of
24 protracted care or rehabilitative assistance.

25 (cf: P.L.1999, c.166, s.1)

26

27 30. Section 1 of P.L.1989, c.325 (C.59:5-6) is amended to read as
28 follows:

29 1. a. Neither a public entity nor a public employee is liable for any
30 injury suffered by a motor vehicle driver upon his voluntary release
31 from police custody after reasonable precautions have been taken so
32 that the driver is released in a position of relative safety and refuge
33 following his arrest on a charge of operating a motor vehicle while
34 under the influence of intoxicating liquor or drugs, pursuant to
35 R.S.39:4-50, section 2 of P.L. , c. (C.) (now pending before
36 the Legislature as this bill).

37 b. Neither a public entity nor a public employee is liable for any
38 injury suffered by a motor vehicle occupant upon his voluntary release
39 from police detention after reasonable precautions have been taken so
40 that the occupant is released in a position of relative safety and refuge
41 following the arrest of a motor vehicle driver on a charge of operating
42 a motor vehicle while under the influence of intoxicating liquor or
43 drugs, pursuant to R.S.39:4-50 or section 2 of P.L. , c. (C.)
44 (now pending before the Legislature as this bill).

45 (cf: P.L.1989, c.325, s.1)

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2378

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 2003

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2378.

This committee substitute requires persons convicted of a third or subsequent drunk driving offense to be sentenced to a mandatory 180-day term of imprisonment in a county jail or workhouse, but provides that the court may reduce the term of imprisonment for each day, up to a total of 90 days, that the person participates in an alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center (IDRC).

Under current law, persons convicted of a third or subsequent offense of drunk driving are subject to 180 days imprisonment, except that the court may reduce this term by up to 90 days for each day served performing community service. Furthermore, these offenders may not be required to serve their term of imprisonment in the county jail or workhouse, but may serve such imprisonment in an inpatient rehabilitation program. Under the substitute, at least 90 days would have to be served in jail without exception.

The substitute also makes drunk drivers who are required to serve the mandatory term of imprisonment ineligible to participate in a work release program. Under a work release program, qualified prisoners may be employed outside the jail, but when not working, they must be confined to the jail.

It is the committee's intention that this act be known as "Michael's Law," in memory of Michael Albano, a 19-year old from Vineland who was killed by a drunk driver in December 2001. The offender had four previous drunk driving convictions.

As reported by the committee, this committee substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 3342, as amended and reported by the committee on this same date.

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Press Releases

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Contact: Micah Rasmussen
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RELEASE: January 20, 2004

[Previous Screen](#)

Governor Signs "Michael's Law" to Crack Down on DWI's

Building a Better New Jersey: Making Roads Safer

(VINELAND)—Governor James E. McGreevey signed legislation today that enhances penalties for third and subsequent offenses of driving while intoxicated (DWI). Known as Michael's Law, the measure will make New Jersey roads safer and continues the Governor's effort to "Build a Better New Jersey."

The bill was named after Michael Albano, a 19-year old from Vineland who was killed by a drunk driver in December 2001. The offender had four previous drunk driving convictions.

"This law is dedicated to Michael Albano and his family," said McGreevey. "I want to praise them for their personal courage and tireless advocacy in getting this law passed."

"Statistics show multiple DWI offenders are one of the most difficult groups to stop from drunk driving," said McGreevey. "Michael's Law will keep third-time DWI offenders off the streets, even if they won't keep themselves off the streets. It will guarantee they spend time in jail."

The bill signed today requires a person who commits a third or subsequent DWI offense to serve a 180-day prison term in a county jail or workhouse. The court could reduce the 180-day term for each day, not exceeding 90 days, served in a drug or alcohol inpatient rehabilitation program. The program must be approved by the Intoxicated Driver Resource Center, which is established in each county, in conjunction with the Division of Alcoholism and Drug Abuse and the Motor Vehicle Commission.

The Governor was joined by legislative sponsors, as well as members of the Albano family.

"This is a proud moment for Michael Albano's parents, Nelson and Debbie, whose focus and vision brought this tough, new drunken driving law to fruition," said Assemblyman Jeff Van Drew (D-Cape May). "They took the tragedy of losing their son to a drunken driver and turned it around so that lives can be saved in future generations. This law is really a celebration of Michael's life."

“Today is a proud and momentous day for our family,” said Nelson Albano, father of Michael Albano. “This dedication and signing of Michael’s Law is a great honor and tribute to our son Michael. Nothing could replace the void in our life, but knowing that his death was not in vain has given us some peace.”

According to the National Highway Traffic Safety Administration and MADD, about one-third of all drivers arrested or convicted of DWI are repeat offenders and those offenders are 40 percent more likely to be involved in a fatal accident than drivers without prior DWI’s.

“Today marks the moment when the Albano family can close a bittersweet chapter in their lives,” said Senator Nicholas Asselta (R-Cape May). “They have worked so hard on this legislation to protect innocent lives. They have managed to see through the sadness of losing their young son in order to increase safety for all New Jersey citizens. Although there is nothing we can do to lessen their grief, I hope the signing of this bill into law can aid the family in easing some of their pain.”

Earlier today, the Governor signed Senate Bill 338 which bans the use of hand-held wireless phones in moving vehicles and Assembly Bill 682 which lowers the blood alcohol content from 0.10 to 0.08. The Governor will have a ceremonial bill signing for both bills later today.



State of New Jersey Governor's Office

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