

39:4-50, 39:4-50.1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 39:4-50, 39:4-50.1 (Driving under influence - amends law)

LAWS OF: 1983

CHAPTER: 129

Bill No: S1833

Sponsor(s): Graves

Date Introduced: Oct. 25, 1982

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

Senate: Law, Public Safety & Defense

Amended during passage: /// No Assembly committee substitute enacted. Substituted for A2027 (not attached since identical to S1833)

Date of Passage: Assembly: Feb. 28, 1983

Senate: Nov. 29, 1982

Date of Approval: April 7, 1983

Following statements are attached if available:

Sponsor statement:		Yes	//
Committee statement:	Assembly	Yes	//
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		Yes	//
Following were printed:			
Reports:		///	No
Hearings:		///	No

Federal law, referred to statements: 23 USCA 408

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4-7-83

ASSEMBLY COMMITTEE SUBSTITUTE FOR

SENATE, No. 1833

STATE OF NEW JERSEY

ADOPTED FEBRUARY 14, 1983

By Senator GRAVES

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4-50 and P. L. 1951, c. 23.

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

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

2 39:4-50. (a) A person who operates a motor vehicle while under
3 the influence of intoxicating liquor, narcotic, hallucinogenic or
4 habit-producing drug, or operates a motor vehicle with a blood
5 alcohol concentration of 0.10% or more by weight of alcohol in the
6 defendant's blood or permits another person who is under the in-
6A fluence of intoxicating liquor, narcotic, hallucinogenic or habit-pro-
6B ducing drug to operate a motor vehicle owned by him or in his cus-
6C tody or control or permits another to operate a motor vehicle with a
6D blood alcohol concentration of 0.10% or more by weight of alcohol
6E in the defendant's blood, shall be subject, for the first offense, to a
7 fine of not less than \$250.00 nor more than \$400.00 or imprisonment
8 for a term of not more than 30 days or both, in the discretion of the
9 court, and shall forthwith forfeit his right to operate a motor vehicle
10 over the highways of this State for a period of not less than six
11 months nor more than one year. Except as hereinafter provided,
12 for a second violation, [he] a person shall be subject to a fine of
13 not less than \$500.00 nor more than \$1,000.00, and shall be ordered
14 by the court to perform community service for a period of 30 days,
15 which shall be of such form and on such terms as the court shall
16 deem appropriate under the circumstances or may be sentenced
17 to imprisonment for a term of not more than 90 days, and shall

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

Matter printed in italics thus is new matter.

18 forfeit his right to operate a motor vehicle over the highways of
19 this State for a period of two years upon conviction, and, after
20 the expiration of said period, he may make application to the
21 Director of the Division of Motor Vehicles for a license to operate
22 a motor vehicle, which application may be granted at the discretion
23 of the director, consistent with subsection (b) of this section.
24 Except as hereinafter provided, for a third or subsequent violation,
25 **[he]** *a person* shall be subject to a fine of \$1,000.00, and shall be
26 sentenced to imprisonment for a term of not less than 180 days,
27 except that the court may lower such term for each day, not exceed-
28 ing 90 days, served performing community service in such form and
29 on such terms as the court shall deem appropriate under the circum-
30 stances and shall thereafter forfeit his right to operate a motor
31 vehicle over the highways of this State for 10 years.

32 If the driving privilege of any person is under revocation or
33 suspension for a violation of any provision of this Title at the time
34 of any conviction for a violation of this section, the revocation or
35 suspension period imposed shall commence as of the date of termi-
36 nation of the existing revocation or suspension period. A court
37 that imposes a term of imprisonment under this section may
38 sentence the person so convicted to the county jail, to the work-
39 house of the county wherein the offense was committed, or to an
40 inpatient rehabilitation program approved by the Director of the
41 Division of Motor Vehicles.

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

51 (b) In addition to any other requirements provided by law, a
52 person convicted under this section must satisfy the requirements
53 of a program of alcohol education or rehabilitation approved by
54 the Director of the Division of Motor Vehicles. Failure to satisfy
55 such requirements shall result in a driver license revocation or
56 suspension **[or]** *and* continuation of revocation or suspension
57 until such requirements are satisfied, unless stayed by court order
58 in accordance with Rule 7:8-2 of the N. J. Court Rules, 1969, or
59 R. S. 39:5-22. A fee, not to exceed \$40.00, shall be payable to the
60 director from every person required to satisfy the requirements of

61 a program of alcohol education or rehabilitation under the pro-
62 visions of this section.

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

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

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

1 2. Section 30 of P. L. 1951, c. 23 (C. 39:4-50.1) is amended
2 to read as follows:

3 30. In any prosecution for a violation of R. S. 39:4-50 relating
4 to driving a vehicle while under the influence of intoxicating liquor,
5 the amount of alcohol in the defendant's blood at the time alleged
6 as shown by chemical analysis of the defendant's blood, urine,
7 breath, or other bodily substance shall give rise to the following
8 presumptions:

9 (1) If there was at that time 0.05% or less by weight of alcohol
10 in the defendant's blood, it shall be presumed that the defendant
11 was not under the influence of intoxicating liquor;

12 (2) If there was at that time in excess of 0.05% but less than
13 0.10% by weight of alcohol in the defendant's blood, such fact shall
14 not give rise to any presumption that the defendant was or was
15 not under the influence of intoxicating liquor, but such fact may
16 be considered with other competent evidence in determining the
17 guilt or innocence of the defendant[.];

18 (3) If there was at that time 0.10% or more by weight of alco-
19 hol in the defendant's blood, it shall be presumed that the defendant
20 was under the influence of intoxicating liquor].

21 The foregoing provisions of this section shall not be construed

22 as requiring that evidence of the amount of alcohol in the defend-
23 ant's blood must be presented, nor shall they be construed as
24 limiting the introduction of any other competent evidence bearing
25 upon the question whether or not the defendant was under the
26 influence of intoxicating liquor.

1 3. This act shall take effect immediately.

SENATE, No. 1833

STATE OF NEW JERSEY

INTRODUCED OCTOBER 25, 1982

By Senator GRAVES

Referred to Committee on Law, Public Safety and Defense

AN ACT concerning the operation of motor vehicles by persons
under the influence of intoxicating liquor or drugs and amending
R. S. 39:4-50 and section 30 of P. L. 1951, c. 23.

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

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

2 39:4-50. (a) (1) A person **who operates** shall not operate a
3 motor vehicle while under the influence of intoxicating liquor,
4 narcotic, hallucinogenic or habit-producing drug, or **permits**
5 *permit* another person who is under the influence of intoxicating
6 liquor, narcotic, hallucinogenic or habit-producing drug to operate
7 a motor vehicle owned by him or in his custody or control**[.]**.

8 (2) *A person charged under subsection (a) (1) of this section*
9 *whose blood alcohol concentration is 0.10% or more by weight as*
10 *shown by a chemical analysis of a blood, breath, urine or other*
11 *bodily substance sample taken within four hours of the alleged*
12 *offense shall be guilty of violating subsection (a) (1) of this section.*
13 *This provision shall not preclude a conviction based on other*
14 *admissible evidence.*

15 (3) *A person convicted of a violation of subsection (a) (1) of this*
16 *section shall be subject, for the first offense, to a fine of not less*
17 *than \$250.00 nor more than \$400.00 or imprisonment for a term*
18 *of not more than 30 days or both, in the discretion of the court, and*
19 *shall forthwith forfeit his right to operate a motor vehicle over the*
20 *highways of this State for a period of not less than six months nor*
21 *more than one year. Except as hereinafter provided, for a second*

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

22 violation, [he] a person shall be subject to a fine of not less than
23 \$500.00 nor more than \$1,000.00, and shall be ordered by the court
24 to perform community service for a period of 30 days, which shall
25 be of such form and on such terms as the court shall deem appro-
26 priate under the circumstances or may be sentenced to imprison-
27 ment for a term of not *less than three days nor* more than 90 days,
28 and shall forfeit his right to operate a motor vehicle over the high-
29 ways of this State for a period of two years upon conviction, and,
30 after the expiration of said period, he may make application to the
31 Director of the Division of Motor Vehicles for a license to operate
32 a motor vehicle, which application may be granted at the discretion
33 of the director, consistent with subsection (b) of this section.
34 Except as hereinafter provided, for a third or subsequent violation,
35 [he] a person shall be subject to a fine of \$1,000.00, and shall be
36 sentenced to imprisonment for a term of not less than 180 days,
37 except that the court may lower such term for each day, not exceed-
38 ing 90 days, served performing community service in such form and
39 on such terms as the court shall deem appropriate under the circum-
40 stances and shall thereafter forfeit his right to operate a motor
41 vehicle over the highways of this State for 10 years.

42 If the driving privilege of any person is under revocation or
43 suspension for a violation of any provision of this Title at the time
44 of any conviction for a violation of this section, the revocation or
45 suspension period imposed shall commence as of the date of term-
46 ination of the existing revocation or suspension period. A court
47 that imposes a term of imprisonment under this section may
48 sentence the person so convicted to the county jail, to the work-
49 house of the county wherein the offense was committed, or to an
50 inpatient rehabilitation program approved by the Director of the
51 Division of Motor Vehicles.

52 A person who has been convicted of a previous violation of this
53 section need not be charged as a second or subsequent offender in
54 the complaint made against him in order to render him liable to
55 the punishment imposed by this section on a second or subsequent
56 offender, but if the second offense occurs more than 10 years after
57 the first offense the court shall treat the second conviction as a first
58 offense for sentencing purposes and if a third offense occurs more
59 than 10 years after the second offense, the court shall treat the third
60 conviction as a second offense for sentencing purposes.

61 (b) In addition to any other requirements provided by law, a
62 person convicted under this section must satisfy the requirements
63 of a program of alcohol education or rehabilitation approved by
64 the Director of the Division of Motor Vehicles. Failure to satisfy

65 such requirements shall result in a driver license revocation or
 66 suspension or continuation of revocation or suspension until such
 67 requirements are satisfied, unless stayed by court order in accord-
 68 ance with Rule 7:8-2 of the N. J. Court Rules, 1969, or R. S.
 69 39:5-22. A fee, not to exceed \$40.00, shall be payable to the director
 70 from every person required to satisfy the requirements of a pro-
 71 gram of alcohol education or rehabilitation under the provisions of
 72 this section.

73 (c) Upon conviction of a violation of this section, the court shall
 74 collect forthwith the New Jersey driver's license or licenses of the
 75 person so convicted and forward such license or licenses to the
 76 Director of the Division of Motor Vehicles. In the event that a
 76 person convicted under this section is the holder of any out-of-
 77 state driver's license, the court shall not collect the license but shall
 78 notify forthwith the director who shall, in turn, notify appropriate
 79 officials in the licensing jurisdiction. The court shall, however,
 80 revoke the nonresident's driving privilege to operate a motor
 81 vehicle in this State in accordance with this section.

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

85 (e) Any person accused of a violation of this section who is liable
 86 to punishment imposed by this section as a second or subsequent
 87 offender shall be entitled to the same rights of discovery as allowed
 88 defendants pursuant to the Rules Governing Criminal Practice as
 89 set forth in the Rules Governing the Courts of the State of New
 90 Jersey.

91 (f) *Upon a conviction of a violation of this section, the court may*
 92 *impound at the expense of the person so convicted, a motor vehicle*
 93 *registered to that person. The motor vehicle may be impounded*
 94 *for the period of the license suspension or for any shorter length*
 95 *of time that the court may deem reasonable under the circum-*
 96 *stances.*

1 3. Section 30 of P. L. 1951, c. 23 (C. 39:4-50.1) is amended to
 2 read as follows:

3 30. In any prosecution for a violation of R. S. 39:4-50 relating to
 4 driving a vehicle while under the influence of intoxicating liquor,
 5 the amount of alcohol in the defendant's blood at the time alleged
 6 as shown by chemical analysis of the defendant's blood, urine,
 7 breath, or other bodily substance shall give rise to the following
 8 presumptions:

9 (1) If there was at that time 0.05% or less by weight of alcohol

10 in the defendant's blood, it shall be presumed that the defendant
11 was not under the influence of intoxicating liquor;

12 (2) If there was at that time in excess of 0.05% but less than
13 0.10% by weight of alcohol in the defendant's blood, such fact shall
14 not give rise to any presumption that the defendant was or was not
15 under the influence of intoxicating liquor, but such fact may be
16 considered with other competent evidence in determining the guilt
17 or innocence of the defendant;

18 (3) If there was at that time 0.10% or more by weight of
19 alcohol in the defendant's blood, it shall be presumed that the
20 defendant was under the influence of intoxicating liquor.

21 **【The foregoing provisions】** *Subsections (1) and (2)* of this sec-
22 tion shall not be construed as requiring that evidence of the amount
23 of alcohol in the defendant's blood must be presented**【, nor】**. *Sub-*
24 *sections (1), (2) and (3)* of this section shall **【they】** not be con-
25 strued as limiting the introduction of any other competent evidence
26 bearing upon the question whether or not the defendant was under
27 the influence of intoxicating liquor.

1 4. This act shall take effect immediately.

STATEMENT

This bill amends drunk driving statutes so that State law will meet the initial minimum requirements and some of the supplemental requirements of a federal statute recently enacted which provides federal incentive grants to states that adopt stringent anti-drunk driving laws.

If the New Jersey statutes meet the initial minimum requirements of this federal statute the State may receive a basic grant of \$720,000.00 per year for three years for highway safety programs that attempt to reduce traffic safety problems created by persons driving while under the influence of alcohol. This bill meets these minimum requirements by amending present law to provide that a person with a blood alcohol concentration of 0.10% or more shall be deemed guilty of driving while intoxicated and by setting a three day minimum term of imprisonment for a second violation.

If New Jersey statutes meet some or all of the supplemental requirements, the State may receive up to \$480,000.00 per year for three years in addition to the basic grant. The bill meets one of the supplemental requirements by authorizing a court to impound, at the expense of the convicted person, a motor vehicle registered to that person for the term of the license suspension or for any shorter length of time deemed reasonable.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
SENATE, No. 1833

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1983

The purpose of this bill in its substitute form is to amend the drunk driving statutes so that New Jersey will meet the basic requirements and some of the supplemental requirements of a federal law that provides federal incentive grants to states with stringent drunk driving laws.

By meeting the initial minimum requirements of the federal law, New Jersey could qualify for a basic grant of \$720,000.00 per year for three years, to be used to implement and enforce programs to reduce traffic safety problems caused by persons who drive while intoxicated.

The bill makes changes to New Jersey's drunk driving laws, thereby bringing them into conformance with the requirements for a basic federal grant. The bill, in its substitute form, requires that a person whose blood alcohol concentration is 0.10% or greater be considered guilty of driving while intoxicated. Current law merely creates a presumption that such a person was under the influence of intoxicating liquor. The Attorney General's Office has proposed the language incorporated in the substitute.

Other requirements for a basic grant are already covered by current law. These include prompt license suspensions of at least 90 days for a first offender and at least one year for a repeat offender, and increased efforts to enforce alcohol-related traffic laws.

If New Jersey's laws meet some or all of certain additional requirements, the State can qualify for a grant of up to \$480,000.00 per year for three years, in addition to the basic grant.

New Jersey already fulfills two other requirements for a supplemental grant: a Statewide recordkeeping system, and rehabilitation and treatment programs for persons convicted of driving while intoxicated.

One requirement for a supplemental grant which was just recently met by New Jersey is the establishment of 21 years of age as the legal age for purchasing and consuming alcoholic beverages.

SENATE LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO

SENATE, No. 1833

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1982

The purpose of this bill, as amended, is to change the drunk driving statutes so that New Jersey will meet the basic requirements and some of the supplemental requirements of a federal law that provides federal incentive grants to states with stringent drunk driving laws.

By meeting the initial minimum requirements of the federal law, New Jersey could qualify for a basic grant of \$720,000.00 per year for three years, to be used to implement and enforce programs to reduce traffic safety problems caused by persons who drive while intoxicated.

The bill makes two changes in New Jersey's drunk driving laws, thereby bringing them into conformance with the requirements for a basic federal grant. First, it requires that a person whose blood alcohol concentration is 0.10% or greater be considered guilty of driving while intoxicated. Current law merely creates a presumption that such a person was under the influence of intoxicating liquor. Second, it changes the penalty for a second drunk driving violation. Under current law, a person guilty of a second offense of drunk driving, in addition to a fine and a license suspension, is either imprisoned for up to 90 days or ordered to perform community service for 30 days. The bill would require that if the option of imprisonment were chosen, the defendant would serve a minimum of three days.

The committee amended the bill to require that at least two of the three days be served consecutively. This amendment was adopted to guarantee that New Jersey's law conform to the federal requirement that a second offender receive a minimum sentence of at least 48 consecutive hours.

If New Jersey's laws meet some or all of certain additional requirements, the State can qualify for a grant of up to \$480,000.00 per year for three years, in addition to the basic grant. The bill would bring New Jersey into conformance with one of the additional requirements, namely the impoundment, at the expense of the person convicted of drunk driving, of a motor vehicle registered to that person for the time of the license suspension, or less, if appropriate.

The committee also amended the bill to require that a person convicted of drunk driving satisfy the requirements of an alcohol education or rehabilitation program before his driving privileges are restored.

Amendments were adopted to correct errors in numbering the bill's sections.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: PAUL WOLCOTT

APRIL 7, 1983

Governor Thomas H. Kean has signed the following bills:

A-851, sponsored by Assemblywoman Mildred Garvin, D-Essex, which requires the use of child restraints in automobiles for children under five years old. The bill requires the use of federally approved child restraint seats, while allowing a child between 18 months and five years to use a seat belt in the rear seat of the car as an alternative. The measure is intended to cut down on a major cause of injury and death in young children, the injuries received when a small child is thrown about the inside of a car during an auto accident.

A-366, sponsored by Assemblyman John P. Doyle, D-Ocean, which revises the statutes governing nonprofit corporations.

S-1833, sponsored by State Senator Frank X. Graves, D-Passaic, which makes it a crime "per se" to drive a motor vehicle with a blood alcohol concentration of .10 or more. Under the bold drunk driving statute a person with a blood alcohol content of .10 was presumed to be under the influence. This bill removes the presumption of intoxication and makes it a crime to have that level of blood alcohol. The bill makes New Jersey's drunk driving law conform to federal laws that provide incentive grants to states with stringent drunk driving laws. It is estimated that New Jersey will receive \$1.2 million in federal funds over three years after the bill becomes law.

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