

12:7-55

LEGISLATIVE HISTORY CHECKLIST
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(Boating accidents--fatalities--
require testing of operator)

NJSA: 12:7-55

LAWS OF: 1993 **CHAPTER:** 233

BILL NO: A800

SPONSOR(S) Heck

DATE INTRODUCED: January 28, 1992

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Law & Public Safety

AMENDED DURING PASSAGE: Yes Amendments during passage
First ~~revision~~ enacted denoted by subscript numbers
reprint

DATE OF PASSAGE: **ASSEMBLY:** November 16, 1992
SENATE: June 17, 1993

DATE OF APPROVAL: August 6, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 800

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1992

By Assemblywoman HECK, Assemblyman Baer
and Assemblywoman Weinberg

1 AN ACT concerning the testing of operators of power vessels
2 involved in certain boating accidents¹,and¹ amending ¹[and
3 supplementing]¹ P.L.1986, c.39.

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

7 1. Section 7 of P.L.1986, c.39 (C.12:7-55) is amended to read
8 as follows:

9 7. a. (1) A person who operates a power vessel or a vessel
10 which is 12 feet or greater in length on the tidal or non-tidal
11 waters of this State shall be deemed to have given his consent to
12 the taking of samples of his breath for the purpose of making
13 chemical tests to determine the content of alcohol in his blood,
14 except that the taking of samples shall be made in accordance
15 with the provisions of this amendatory and supplementary act and
16 at the request of the State Marine Police Force or a law
17 enforcement officer who has reasonable grounds to believe that
18 the person has been operating a vessel in violation of the
19 provisions of section 19 of P.L.1954, c.236 (C.12:7-34.19) or
20 section 3 of P.L.1952, c.157 (C.12:7-46).

21 ¹[(2) An operator of a power vessel or a vessel which is 12 feet
22 or greater in length who is involved in an accident on the tidal or
23 non-tidal waters of this State resulting in serious bodily injury as
24 defined in section 2 of P.L., c. ... (C.)(now pending
25 before the Legislature as this bill) to, or the death of, any person
26 shall be deemed to have given his consent to the taking of
27 samples of breath, blood or urine for the purpose of making the
28 appropriate tests to determine the content of alcohol or of a
29 narcotic, hallucinogenic or habit-producing drug in his blood. The
30 taking of samples shall be made at the request of the State
31 Marine Police officer or a law enforcement officer in accordance
32 with the authorization granted in section 2 of P.L., c. ... (C.
33)(now pending before the Legislature as this bill) and in
34 accordance with the provisions of section 8 of P.L.1986, c.39
35 (C.12:7-56).]

36 (2) Whenever an operator has been involved in an accident
37 resulting in death, bodily injury or property damage, an officer
38 shall consider that fact along with all other facts and
39 circumstances in determining under paragraph (1) of this
40 subsection whether there are reasonable grounds to believe a
41 person is operating a vessel in violation of the provisions of

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 floor amendments adopted June 10, 1993.

1 section 19 of P.L.1954, c.236 (C.12:7-34.19) or section 3 of
2 P.L.1952, c.157 (C.12:7-46).¹

3 b. A record of the taking of the sample, disclosing the date
4 and time thereof, as well as the result of any chemical test, shall
5 be made and a copy shall be furnished or made available to the
6 person so tested, upon his request.

7 c. In addition to the samples taken and tests made at the
8 direction of the State Marine Police Force or a law enforcement
9 officer, the person tested shall be permitted to have samples
10 taken and chemical tests of his breath, urine or blood made by a
11 person or physician of his own selection.

12 d. The State Marine Police Force or a law enforcement officer
13 shall inform the person tested of his rights under subsections b.
14 and c. of this section.

15 e. No chemical test, as provided in this section, or specimen
16 necessary for a test, may be made or taken forcibly and against
17 physical resistance thereto by the defendant. The State Marine
18 Police Force or a law enforcement officer shall, however, inform
19 the person arrested of the consequences of refusing to submit to
20 the test, in accordance with section 9 of this amendatory and
21 supplementary act. A standard statement, prepared by the
22 Director of the Division of Motor Vehicles in the Department of
23 Law and Public Safety, shall be read by the State Marine Police
24 Force or a law enforcement officer to the person under arrest.
25 (cf: P.L.1986, c.39, s.7)

26 ¹[2. (New section) A State Marine Police officer or any law
27 enforcement officer shall be authorized to and shall require the
28 taking of samples of the breath, blood or urine of an operator of a
29 power vessel, or vessel which is 12 feet or greater in length,
30 whenever such a vessel is involved in an accident resulting in
31 serious bodily injury to or the death of any person on the tidal or
32 non-tidal waters of this State. The taking of the samples shall be
33 for the purpose of having the appropriate tests conducted to
34 determine the content of alcohol or of a narcotic, hallucinogenic
35 or habit-producing drug in the blood of the vessel operator
36 involved in the accident. The taking of samples shall be made
37 only at the request of a State Marine Police officer or a law
38 enforcement officer and in accordance with the provisions of
39 sections 7 and 8 of P.L.1986, c.39 (C.12:7-55 and 12:7-56).

40 "Serious bodily injury" as used in this section and in paragraph
41 (2) of subsection a. of section 7 of P.L.1986, c.39 (C.12:7-55)
42 means bodily injury which creates a substantial risk of death or
43 which causes serious, permanent disfigurement, protracted loss or
44 impairment of the function of any bodily member or organ.]¹

45 ¹[3.] 2.¹ This act shall take effect immediately, but shall apply
46 only to accidents occurring on and after the effective date.

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51 Provides for consideration of boat operator's involvement in
52 accident in determining reasonable grounds to test for alcohol or
53 drugs.

1 taken and chemical tests of his breath, urine or blood made by a
2 person or physician of his own selection.

3 d. The State Marine Police Force or a law enforcement officer
4 shall inform the person tested of his rights under subsections b.
5 and c. of this section.

6 e. No chemical test, as provided in this section, or specimen
7 necessary for a test, may be made or taken forcibly and against
8 physical resistance thereto by the defendant. The State Marine
9 Police Force or a law enforcement officer shall, however, inform
10 the person arrested of the consequences of refusing to submit to
11 the test, in accordance with section 9 of this amendatory and
12 supplementary act. A standard statement, prepared by the
13 Director of the Division of Motor Vehicles in the Department of
14 Law and Public Safety, shall be read by the State Marine Police
15 Force or a law enforcement officer to the person under arrest.

16 (cf: P.L.1986, c.39, s.7)

17 2. (New section) A State Marine Police officer or any law
18 enforcement officer shall be authorized to and shall require the
19 taking of samples of the breath, blood or urine of an operator of a
20 power vessel, or vessel which is 12 feet or greater in length,
21 whenever such a vessel is involved in an accident resulting in
22 serious bodily injury to or the death of any person on the tidal or
23 non-tidal waters of this State. The taking of the samples shall be
24 for the purpose of having the appropriate tests conducted to
25 determine the content of alcohol or of a narcotic, hallucinogenic
26 or habit-producing drug in the blood of the vessel operator
27 involved in the accident. The taking of samples shall be made
28 only at the request of a State Marine Police officer or a law
29 enforcement officer and in accordance with the provisions of
30 sections 7 and 8 of P.L.1986, c.39 (C.12:7-55 and 12:7-56).

31 "Serious bodily injury" as used in this section and in paragraph
32 (2) of subsection a. of section 7 of P.L.1986, c.39 (C.12:7-55)
33 means bodily injury which creates a substantial risk of death or
34 which causes serious, permanent disfigurement, protracted loss or
35 impairment of the function of any bodily member or organ.

36 3. This act shall take effect immediately, but shall apply only
37 to accidents occurring on and after the effective date.

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40 STATEMENT

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42 This bill requires a marine law enforcement officer or any law
43 enforcement officer at the scene of a boating accident which
44 results in serious bodily injury to or the death of any person to
45 have the operator of any boat involved in the accident tested for
46 the presence of alcohol or drugs in the blood by means of breath,
47 blood or urine samples.

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52 Requires boat operators involved in fatal boating accidents to be
53 tested for alcohol or drug use.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 800

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Bill No. 800.

This bill requires a marine law enforcement officer or any law enforcement officer at the scene of a boating accident involving a power vessel or vessel which is 12 feet or greater in length which results in serious bodily injury to or the death of any person to have the operator of any boat involved in the accident tested for the presence of alcohol or drugs in the blood by means of breath, blood or urine samples. The bill amends N.J.S.A. 12:7-55 which currently provides for testing if there is grounds to believe that the person operated the vessel in violation of N.J.S.A.12:7-34.19 (operating a power vessel or motor while under the influence of any intoxicating liquor or narcotic drug) or N.J.S.A.12:7-46 (operating a power vessel while under the influence of any intoxicating liquor or narcotic drug).

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 800

STATE OF NEW JERSEY

DATED: MARCH 29, 1993

The Senate Law and Public Safety Committee reports Assembly Bill No. 800 without recommendation.

This bill requires a marine law enforcement officer or any law enforcement officer at the scene of certain boating accidents to have the operators of the vessels tested for alcohol or drugs.

Under the provisions of the bill, if the accident involved a power vessel or vessel which is 12 feet or greater in length and resulted in serious bodily injury to or the death of any person, the operator of any boat involved in the accident would be tested for the presence of alcohol or drugs in the blood by means of breath, blood or urine samples.

Current law (P.L.1986, c.39; C.12:7-55) provides for testing if the officer has reasonable grounds to believe that the person operated a power vessel or a vessel which is 12 feet or greater in length while under the influence of any intoxicating liquor or narcotic drug.