



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
PO BOX 085
TRENTON, NJ 08625-0085
TELEPHONE: (609) 984-6500

JAMES E. MCGREEVEY
Governor

PETER C. HARVEY
Attorney General

VAUGHN L. MCKOY
Director

MEMORANDUM

TO: Col. Joseph R. Fuentes, Superintendent, Division of State Police
All Law Enforcement Chief Executives

FROM: Vaughn L. McKoy, Director

DATE: July 2, 2004

SUBJECT: New OVWI 0.08% *Per Se* Offense & Revised Standard OVWI Refusal Statement

Effective Friday, July 2, 2004, Governor James E. McGreevey signed Senate Bill No. 1511, Second Reprint, into law. This bill lowered the *per se* blood alcohol limit for the offense of operating a vessel while intoxicated (OVWI), *N.J.S.A.* 12:7-46, from 0.10% to 0.08%. It also amended the OVWI penalties for refusing to submit to chemical breath testing, *N.J.S.A.* 12:7-57. This bill became effective immediately upon its adoption (S1511 [2R], §5).

As a result of these legislative changes the Chief Administrator of the New Jersey Motor Vehicle Commission (formerly the Director, Division of Motor Vehicles) has approved a revised Standard Statement for Operators of a Vessel, *N.J.S.A.* 12:7-55e. The NJMVC Chief Administrator approved the attached revision on July 1, 2004. It becomes effective upon the adoption of this bill as law. A copy of the new revised Standard Statement for Operators of a Vessel - *N.J.S.A.* 12:7-55e is attached. This form is also available, in an Adobe Acrobat PDF format, on the Division of Criminal Justice internet website at www.njdcj.org or at www.state.nj.us/lps/dcj, under Guidelines, DWI Enforcement, "NJMVC Standard Refusal Statements."

Accordingly, this Letter-Memorandum supercedes the January 8, 2001 Letter-Memorandum entitled, "Revised DMV Standard (Refusal) Statement to be Read to Persons Arrested for Operating a Vessel While Intoxicated (OVWI), *N.J.S.A.* 12:7-55e."



Effective immediately **all** members of the Division of State Police, and all police and law enforcement officers this State, who place a person under arrest for an OVWI violation (*N.J.S.A. 12:7-46*) are required to use the attached revised Standard Statement. All earlier versions of the Standard Statement for Operators of a Vessel - *N.J.S.A. 12:7-55e* are to be discarded and destroyed.

Please note, that the content of this Standard Statement **cannot be altered or changed in any manner, and cannot be translated to any other language.**

Questions concerning this revised Standard OVWI Refusal Statement, originating with the Division of State Police, are to be directed through the Division chain of command. Questions from local, county and other police agencies are to be directed to the Police Legal Advisor or other appropriate Assistant Prosecutor in County Prosecutor's Office of your county. State, Bi-State and other Law Enforcement Agencies are to contact, respectively, their Deputy Attorney General, General Counsel or designated legal advisor.

Attachment: Revised NJMVC Standard Statement for Operators of a Vessel

- c. Attorney General Peter C. Harvey
All County Prosecutors
Sharon Anne Harrington, Chief Administrator, NJMVC
AAG Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau
AAG Daniel Giaquinto, Director, Office of State Police Affairs
DAG Stephen Monson, Prosecutors Supervision & Coordination Bureau
DAG Mark Holmes, Division of Law, NJMVC, General Counsel
DAG Neil Magnus, Division of Law

Distribution list: State, Bi-State & Federal Law Enforcement Agencies

State Law Enforcement Agencies

Division of Fish & Wildlife, Chief R. Winkel
State Park Service, Chief T. Genardi

Bi-State Law Enforcement Agencies

Port Authority of NY & NJ Police, Acting Dir. J. Morris
Palisades Interstate Parkway Police, Chief R. DeWald
Delaware River & Bay Authority Police, Col. J. McCarnan
Delaware River Port Authority Police, Dir. V. Borrelli
Burlington County Bridge Commission Police, Chief L. Cicero

Federal Law Enforcement Agencies

US Naval Security Department, USN Weapons Station Earle
National Park Service Police, Sandy Hook, Morristown Nat'l Historic Park
US Coast Guard, Captains of the Port, New York & Philadelphia