

## **ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2007-2**

**WHEREAS**, it is decidedly in the public interest that law enforcement agencies and the New Jersey Division of Alcoholic Beverage Control exchange and share information concerning individual driving while intoxicated arrests; and

**WHEREAS**, approximately five hundred State, county and local law enforcement agencies enforce New Jersey Statute § 39:4-50, et seq. - Driving while intoxicated; and

**WHEREAS**, a portion of the standard administrative processing of a subject arrested for driving while intoxicated involves the arresting officer, advising the subject of his/her Miranda protections against self-incrimination and if waived by the subject asking him/her where they consumed their last drink; and

**WHEREAS**, a portion of the subjects arrested provide information that their last drink was consumed at a business licensed to sell and serve alcoholic beverages by the State of New Jersey; and

**WHEREAS**, the New Jersey Division of Alcoholic Beverage Control is the State agency charged with the regulation and enforcement of the alcoholic beverage industry, which encompasses approximately ten thousand licensees; and

**WHEREAS**, New Jersey Division of Alcoholic Beverage Control Administrative Code §13:2-23.1(b) - Prohibition against serving persons under the legal age and intoxicated persons states:

No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person actually or apparently intoxicated, or permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premise;

**NOW THEREFORE**, I Anne Milgram, Attorney General of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby direct that:

1. All law enforcement officers, as part of the administrative duties required when processing a subject under arrest for violation of New Jersey Statute § 39:4-50, et seq. - Driving while intoxicated, shall complete a Division of State Police form 111A (Rev.06/04)(S.O.P. F26) - *Drinking Driver/Operator Questionnaire*, or the equivalent report used by the officer's department. The officer shall advise the subject of his/her Miranda rights and upon receiving a waiver of those rights, ask the subject a series of questions relating to the consumption of alcoholic beverages. In part those questions are:

- What kind of alcoholic drinks have you had?
- How many?
- Where?

2. Whenever a subject indicates that he/she consumed alcoholic beverages at a location other than a private residence or public property, the arresting officer should ask additional questions to determine if the location was a commercial establishment (e.g. a bar, nightclub, restaurant). The location, including street name and municipality, as described by the subject should also be noted and included in the case file.

3. Whenever a law enforcement officer obtains the information outlined in section two, he/she shall also complete a Division of Alcoholic Beverage Control form LD-1 - *Driving While Impaired - Last Drink Location Report*. The following information shall be reported:

- State Police barracks or police department name;
- Municipal code for the location of the arrest;
- Arresting agency's case number;
- A notation if the arrest was the result of a motor vehicle accident investigation;
- A notation if the motor vehicle accident involved serious injury or death;
- The sex of the subject;
- The age of the subject;
- The Blood Alcohol Content (B.A.C.) of the subject as determined by testing;
- The name of the place where the subject stated he/she consumed their last drink.
- The street address, as described by the subject ; and,
- The municipality, as described by the subject.

4. Within two business days, the completed form LD-1 shall be faxed to the Division of Alcoholic Beverage Control. For the convenience of the law enforcement officer, the Division of Alcoholic Beverage Control receiving fax number shall be noted on the form. The Division of Alcoholic Beverage Control may change or update the method the report shall be transmitted should the Director of the Division determine that a different method is more efficient and cost effective.

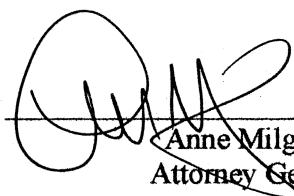
5. The Director of the Division of Alcoholic Beverage Control shall establish an electronic database of the information reported by law enforcement agencies on the form LD-1. The information shall be only used as intelligence lead information and as such may only be used by and disseminated to the Division of Alcoholic Beverage Control and/or any other law enforcement agency. The information shall be maintained for a period twenty-five months from the recorded date of arrest and then purged from the system.

6. The information shall be used by the Division of Alcoholic Beverage Control for all investigative purposes the Director deems appropriate, including, but not limited to, identifying establishments, licensed by that agency, that should be examined for violations of New Jersey Administrative Code §13:2-23.1(b).

7. The information may be used by any law enforcement agency as intelligence lead information for either the enforcement of the State's Alcoholic Beverage Control Administrative Code or the enforcement of New Jersey Statute § 39:4-50, et seq. - Driving while intoxicated.

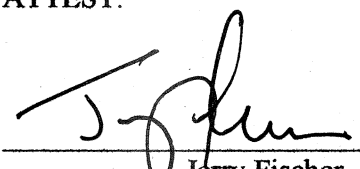
8. The Attorney General may issue and periodically revise the information reported by law enforcement agencies to the Division of Alcoholic Beverage Control regarding enforcement of New Jersey Statute § 39:4-50, et seq. - Driving while intoxicated. Any revision issued by the Attorney General pursuant to this Paragraph are fully incorporated into this Law Enforcement Directive as if set out fully herein, shall be binding upon all affected law enforcement agencies, and shall automatically supersede and take precedence over any rules and regulations, standing operating procedures, guidelines or protocols issued or employed by the affected law enforcement agencies.

9. This Directive shall take effect ninety days from issuance.



Anne Milgram  
Attorney General

ATTEST:



Jerry Fischer  
Director, Division of Alcoholic Beverage Control

Dated: 7/18/07