

LAW AND PUBLIC SAFETY

OFFICE OF HIGHWAY TRAFFIC SAFETY

Drunk Driving Enforcement Fund

Proposed Readoption: N.J.A.C. 13:86

Authorized By: Office of Highway Traffic Safety, Pamela S. Fischer, Director.

Authority: N.J.S.A. 27:5F-35, 39:4-50.8, 52:14D-1, 52:17B-4, and 52:17B-27;

Reorganization Plan No. 004-1992.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-112.

Submit written comments on or before September 4, 2010 to:

Pamela Fischer, Director
Office of Highway Traffic Safety
PO Box 048
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to the provisions of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1c, N.J.A.C. 13:86 is scheduled to expire on April 12, 2011. The Office of Highway Traffic Safety (hereinafter "OHTS") has thoroughly reviewed the chapter governing grants from the Drunk Driving Enforcement Fund (hereinafter "DDEF") and has determined them to be necessary, reasonable and proper for the purposes for which

they were originally promulgated.

The DDEF is established pursuant to N.J.S.A. 39:4-50.8. The DDEF statute provides that, upon conviction for violation of the State's drunk driving statute, N.J.S.A. 39:4-50, or for violation of the State's chemical breath test statute, N.J.S.A. 39:4-50.4a, the court collects a \$100.00 surcharge from the defendant and forwards it to the New Jersey Motor Vehicle Commission. Ninety-five dollars of the \$100.00 surcharge is deposited into the DDEF. The remaining \$5.00 is used for administrative purposes. A municipality, the State Police or a county or interstate law enforcement agency is deemed to have contributed that portion of the surcharge collected and deposited into the DDEF when a police officer from that entity makes the arrest leading to the DWI conviction. These agencies, defined by the current rules as "eligible entities," are entitled to "periodic grants" from the DDEF. N.J.S.A. 39:4-50.8. Additionally, two-thirds of the monies deposited into the Alcohol Education, Rehabilitation and Enforcement Fund in the Department of Health and Senior Services, N.J.S.A. 26:2B-32, for enforcement purposes, is deposited into the DDEF in two yearly installments. N.J.S.A. 26:2B-35. This total is approximately \$1,100,000. These monies are derived from the revenue collected pursuant to the "alcoholic beverage tax law," N.J.S.A. 54:41-1 et seq. Grant monies must be used to increase enforcement of N.J.S.A. 39:4-50 by subsidizing additional law enforcement patrols and other approved measures.

A summary of each section is as follows:

N.J.A.C. 13:86-1.1 states the purpose and scope of the rules. The rules govern the award of grants from the DDEF.

N.J.A.C. 13:86-1.2 contains definitions of terms in the chapter.

N.J.A.C. 13:86-2.1 states that funding is to be used to maintain effective increased enforcement of N.J.S.A. 39:4-50.

N.J.A.C. 13:86-2.2 contains rules on the availability of funds. Monies deposited in the fund during the preceding State fiscal year are available for one grant to each eligible entity. The section also sets forth the formula for calculating the amount available for each eligible entity based on the number of drunk driving arrests resulting in convictions.

N.J.A.C. 13:86-2.3 describes the allowable expenditures and priority of funding.

N.J.A.C. 13:86-2.4 describes the approval process for applications.

N.J.A.C. 13:86-2.5 provides that the Director shall monitor expenditures and may inspect equipment purchases or audit expenditures.

N.J.A.C. 13:86-2.6 provides further explanation of the audit process and the consequences of a finding of non-compliance.

A 60-day comment period is provided on this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption have had a positive social impact on the public. Driving under the influence of alcohol or other impaired substances is a significant health and safety hazard to motorists and pedestrians. Available statistics recorded under the Fatality Analysis Reporting System maintained by the National Highway

Traffic Safety Administration shows a downward trend in alcohol related fatalities between calendar year 2004 and 2008: 185 fatalities in 2004, 203 in 2005, 218 in 2006, 201 in 2007 and 154 in 2008. The assistance provided by DDEF grants to DWI enforcement efforts across the State has contributed to this decline. The re-adoption of these rules will continue to provide a source of funding for additional law enforcement efforts to reduce alcohol related fatalities and crashes.

Economic Impact

The rules proposed for re-adoption have had a positive economic impact on the police agencies that rely on DDEF grants. In State fiscal year 2009, OHTS awarded grants to 488 agencies from a total of \$4,288,786 collected in the DDEF. The grants provide these agencies with additional funds that must be used exclusively to increase enforcement of N.J.S.A. 39:4-50. The rules proposed for re-adoption will permit continued efforts to save lives and reduce the economic costs related to enforcement of the DWI statute. Failure to re-adopt the chapter would have a negative economic impact on police agencies and the public.

Federal Standards Statement

The rules proposed for re-adoption do not require a Federal standards analysis pursuant to Executive Order No. 27 and N.J.S.A. 52:14B-22 through 24 because there is no Federal standard or regulation applicable to the Drunk Driving Enforcement Fund. Rulemaking requirements are dictated by N.J.S.A. 39:4-50.8.

Jobs Impact

The rules proposed for re-adoption will not have any effect on the number of law enforcement personnel employed by eligible entities or any business or industry in the State.

Agriculture Industry Impact

The rules proposed for re-adoption will have no impact on the agriculture industry in the State.

Regulatory Flexibility Statement

The rules proposed for re-adoption impose no reporting, recordkeeping or other compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-17 et seq. The chapter applies only to the Division of State Police, county and interstate law enforcement agencies and municipalities.

Smart Growth Impact

The rules proposed for re-adoption will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for re-adoption will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke

a change in the average costs associated with housing because the rules concern grants to local police departments for drunk driving enforcement.

Smart Growth Development Impact

The rules proposed for readoption will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules concern grants to local police departments for drunk driving enforcement.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:86.