



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE

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TO: ALL COUNTY PROSECUTORS
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ALL LAW ENFORCEMENT CHIEF EXECUTIVES

FROM: PAUL H. ZOUBEK, ACTING ATTORNEY GENERAL OF NEW JERSEY

DATE: JULY 31, 2001

SUBJECT: **ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2001-5:**
P.L. 2001, c. 69, *N.J.S.A.* 39:4-50.22 & 39:4-50.23
POTENTIAL LIABILITY WARNING FORM
12 HOUR IMPOUNDMENT OF THE VEHICLE OF A DWI ARRESTEE
EFFECTIVE DATE: AUGUST 1, 2001

People who are intoxicated, and who operate a motor vehicle while they are intoxicated, pose a serious threat to the public, as well as to themselves. This risk of harm can extend well beyond the time an intoxicated driver has been arrested, processed and released.¹ On average, a defendant whose breath test results showed a concentration of alcohol of 0.10% will require a minimum of six or more hours before the alcohol in their body will be fully metabolized. A person whose breath test results showed a concentration of alcohol of 0.20% will require, on average, up to 14 hours before their body will have fully metabolized all of the alcohol in their system.

The ability of a released drunken driver to immediately gain access to a motor vehicle and to resume driving following his or her arrest has resulted in motor vehicle collisions

¹ In New Jersey the offense of operating a motor vehicle while intoxicated or with a blood alcohol content at or above the legal limit is a motor vehicle offense, not a criminal offense. Once a person has been appropriately charged with the motor vehicle violation of operating a motor vehicle while intoxicated (DWI) or refusing to submit to chemical breath testing, and has been issued the appropriate motor vehicle summons or summonses, that person should ordinarily be released, even though they may still be intoxicated.

where other innocent people have been injured and killed. In at least one such case, an intoxicated driver had been released by the police to another person. That other person was to take the intoxicated driver home. But, instead of taking the intoxicated driver home, the other person took the intoxicated driver to his automobile. The intoxicated driver then got into his vehicle and drove it. Within a short period of time, the intoxicated driver collided with another vehicle, killing its driver, John Elliott. In response to that tragedy, and to the clear threat posed to the public by released drunken drivers who continue to drive while they remain intoxicated, the Legislature passed and the Acting Governor signed, P.L. 2001, c. 69. That law, which was designated by the Sponsor as "John's Law," becomes effective August 1, 2001.

P.L. 2001, c. 69 contains two major provisions. (1) Any person summoned by or on behalf of a defendant charged with a driving while intoxicated (DWI) or refusal to submit to chemical breath testing (Refusal) violation must be provided with a written statement advising that summoned person of his or her "potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while the arrestee remains intoxicated." *N.J.S.A.* 39:4-50.22. (2) The vehicle operated by the person placed under arrest shall be impounded by the law enforcement agency making the arrest for 12 hours from the time of the arrest. *N.J.S.A.* 39:4-50.23. This second section remains subject to the New Jersey Supreme Court's holding that places restrictions on the authority of law enforcement agencies to impound motor vehicles.

The implementation of *N.J.S.A.* 39:4-50.22 and 39:4-50.23 has been delegated, by the Legislature, to the Attorney General. In addition, the Attorney General may issue directives to ensure uniform enforcement of the law pursuant to the Criminal Justice Act of 1970, *N.J.S.A.* 52:17B-97 *et seq.*

THEREFORE, I, PAUL H. ZOUBEK, Acting Attorney General of the State of New Jersey, by virtue of the authority vested in me by the Constitution of the State of New Jersey and the Criminal Justice Act of 1970, *N.J.S.A.* 52:17B-97 *et seq.*, and pursuant to the provisions of P.L. 2001, c. 69, §1, do hereby **DIRECT** that:

1. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A.* 39:4-50.22, the content and form of the written statement and acknowledgment of receipt of the written statement of potential criminal and civil liability for permitting or facilitating the arrestee's operation of a motor vehicle while the arrestee remains intoxicated, [hereafter referred to as the POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22], is established pursuant to this DIRECTIVE. This POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 form shall be used by all law enforcement agencies in and of this State. The POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 form is contained in Appendix A, attached to this DIRECTIVE.

The POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 form has been prepared in both English and an official Spanish translation from the English.

2. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A.* 39:4-50.22, Guidelines for the use of the POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22 form, are established pursuant to this DIRECTIVE. The POTENTIAL LIABILITY WARNING - *N.J.S.A.* 39:4-50.22, Form and Guidelines are contained in Appendix A, attached to this DIRECTIVE. These Guidelines shall be used by all law enforcement agencies in and of this State.
3. Under the provisions of P.L. 2001, c. 69, §1, *N.J.S.A.* 39:4-50.22, Guidelines for the implementation of *N.J.S.A.* 39:4-50.23, the mandatory 12-hour impoundment of the motor vehicle operated by a person arrested for a violation of *N.J.S.A.* 39:4-50 (DWI) or *N.J.S.A.* 39:4-50.4a (Refusal to submit to chemical breath testing) are established pursuant to this DIRECTIVE. The Guidelines are contained in Appendix B, attached to this DIRECTIVE. These Guidelines shall be used by all law enforcement agencies in and of this State.

This DIRECTIVE and these Guidelines are also available on the Division of Criminal Justice Internet website at www.njdcj.org.

Guidelines attached

- c. Director Kathryn Flicker, Division of Criminal Justice
Acting Director Albert Ari, Division of Motor Vehicles
Hon. Richard J. Williams, J.A.D., Administrative Director of the Courts
Chief of Staff Debra L. Stone, Deputy Director, Operations, Division of Criminal Justice
Assistant Director Dennis L. Bliss, Municipal Court Service, AOC
SDAG Charles Grinnell, Acting Chief, Prosecutors & Police Bureau,
Division of Criminal Justice