

OVERVIEW OF GUIDELINES¹
AG DIRECTIVE NO. 2001-5, N.J.S.A. 39:4-50.22; 39:4-50.23

Effective Date: August 1, 2001

POTENTIAL LIABILITY WARNING, N.J.S.A. 39:4-50.22, Form & Procedures

- Any person summoned by or on behalf of a person arrested for DWI or Refusal **MUST** be provided with the POTENTIAL LIABILITY WARNING form [WARNING form].
- After an arrestee has been processed, and before the person summoned arrives, the police officer **MUST** complete the WARNING form as directed by the Guidelines in Appendix A of AG Directive No. 2001-5.
- The police officer does **NOT** have to **READ** the WARNING form to the person.
- The person **MUST** acknowledge receipt of the WARNING form, in writing.
- When the person arrives the police officer should:
 - Identify the defendant to the person & confirm the person has come for the arrestee.
 - Inform the person of the charges against the arrestee.
 - Ask the person for some form of positive verifiable identification.
 - Hand the pre-prepared WARNING form to the person. Ask the person to read the form & instruct the person to fill in the information on the form & sign the form.
 - Take the completed form back from the person & verify if the person has completed all of the information acknowledging receipt.
 - If the person has signed the Acknowledgment, then the police officer is to sign the form, make a copy of the form & give the original to the person.
 - If the person will **NOT** provide written acknowledgment of their receipt of the WARNING form, the police officer **MUST** record that fact on the form, make a copy of the form & give the original to the person.
- The copy of the WARNING form is to be filed in the police department file for that case.

¹ **CAUTION:** This is only an OVERVIEW of the Guidelines of these two statutes. Police officers are cautioned **not to rely** on these Overviews alone. Every police officer should review the full text of both Guidelines, as found in Appendices A & B of AG Directive No. 2001-5.

12-HOUR MANDATORY IMPOUNDMENT OF VEHICLES, N.J.S.A. 39:4-50.23

N.J.S.A. 39:4-50.23 mandates that the law enforcement agency which has arrested a driver for a DWI or a Refusal violation is required to take two actions.

- The arresting law enforcement agency **shall impound** the vehicle that the person was operating at the time of the arrest. *N.J.S.A. 39:4-50.23(a)*
- The vehicle "**shall be impounded for a period of 12 hours after the time of arrest** or until such later time as the arrestee claiming the vehicle meets the conditions for release" under *N.J.S.A. 39:4-50.23(d)*. *N.J.S.A. 39:4-50.23(b)*
 - A vehicle **cannot be impounded** if there is another person who is present at the scene of the arrest & that person has permission to take the vehicle, a valid driver's license, & is capable of operating the vehicle or is making arrangement for removal.
- The police **MUST** inform the person or party taking responsibility for the removal & impoundment of the vehicle of the time of the arrest of the operator of the vehicle & that the vehicle cannot be released for 12 hours following the time of arrest, unless otherwise authorized.
- Release of a vehicle before the expiration of the 12-hour period of impoundment expires is allowed **ONLY** under the following conditions. Failure to comply with any of these requirements will prohibit the release of the impounded vehicle before the 12-hour period of impoundment has elapsed.
- Regardless of the ownership of the vehicle, *N.J.S.A. 39:4-50.23(d)* requires that the person claiming the vehicle **MUST** present & satisfy the documentation, authority & criteria below.
 - Have a valid driver's license.
 - Have proof of ownership of the vehicle or evidence of authority to operate that vehicle.
 - Show proof of valid insurance for the vehicle.
 - The person must be able to operate the vehicle in a safe manner.
 - The person would not be in violation of Title 39 by operating the vehicle.
 - The person has met any other conditions for the release of the vehicle as established by the law enforcement agency, including but not limited to the payment of the reasonable fees for any towing and/or storage of the vehicle.
- If the vehicle is **NOT** owned or leased by the person arrested, then the owner or lessor can claim the vehicle at any time, provided that the owner or lessor satisfies the requirements listed above.
- If the vehicle **IS** owned or leased by the arrested person, the vehicle may be released to another person **ONLY** if the following conditions and requirements are **FULLY** satisfied.
 - The person to whom permission has been given, **has acknowledged, in writing**, receipt of the **POTENTIAL LIABILITY WARNING** - *N.J.S.A. 39:4-50.22*.
 - The arrestee has given permission to the other person to operate the vehicle.
 - The person to whom permission has been given has met all of the conditions for release of the vehicle under the provisions of *N.J.S.A. 39:4-50.23(d)*.