



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

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**MEMORANDUM**

**TO:** COL. CARSON DUNBAR, SUPERINTENDENT,  
DIVISION OF STATE POLICE  
ALL LAW ENFORCEMENT CHIEF EXECUTIVES

**FROM:** Kathryn Flicker, Director

**DATE:** January 8, 2001

**SUBJECT:** Revised DMV Standard (Refusal) Statements for Persons Arrested for  
DWI, *N.J.S.A.* 39:4-50.2(e) and/or CDL/DWI, *N.J.S.A.* 39:3-10.24e

In accordance with an amendment to *N.J.S.A.* 39:4-50.4a (P.L.1999, c.185, §5) and to conform to a recommendation of the Supreme Court in *State v. Widmaier*, 157 *N.J.* 475, 498-499 (1999), the Standard Statements (commonly referred to as the "Refusal" statement), which must be read to every person arrested for a DWI violation under the provisions of *N.J.S.A.* 39:4-50, or for a DWI in a commercial motor vehicle violation under the provisions of *N.J.S.A.* 39:3-10.13, have been revised. These revisions, as adopted by the Acting Director of the Division of Motor Vehicles, will become effective Thursday, February 1, 2001. Copies of both revised Standard Statements are attached.

By law (*N.J.S.A.* 39:4-50.2(e); *N.J.S.A.* 39:3-10.24e), a standard statement prepared by the Director of DMV is required to be read to every person arrested by the police, based upon the officer's reasonable suspicion to believe that the person may have been operating a vehicle (*N.J.S.A.* 39:4-50) or a commercial motor vehicle (*N.J.S.A.* 39:3-10.13) while under the influence of alcohol or with a blood alcohol concentration at, or above, the *per se* level.<sup>1</sup>

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<sup>1</sup> For a DWI violation the *per se* limit is a blood alcohol concentration of 0.10% or more of alcohol in the blood. For a CDL/DWI violation, the offense the *per se* limit is a blood alcohol concentration of 0.04% or more in the blood or breath. See *N.J.S.A.* 39:3-10.11, Definitions, "alcohol concentration."

In State v. Widmaier, the Supreme Court recommended that the language of the supplemental or additional paragraph of the standard statement be simplified and clarified. Subsequent to that opinion, the Legislature adopted a substantive change in the penalties to be imposed by a court for a DWI refusal upon a finding that a defendant refused to submit to breath testing, in an amendment to *N.J.S.A. 39:4-50.4a*.<sup>2</sup> As a result of these two independent actions, a comprehensive review all of the standard statements in use in this State was undertaken, and as a result, revisions were proposed and adopted for each one.

Effective Thursday, February 1, 2001, **all** law enforcement officers in this State who place a person under arrest for a DWI violation (*N.J.S.A. 39:4-50*) or for a DWI in a commercial motor vehicle (CDL/DWI) violation (*N.J.S.A. 39:3-10.13*) are required to use the attached revised Standard Statement applicable to the offense charged.

- For a DWI arrest, officers are to use:

"DIVISION OF MOTOR VEHICLES STANDARD STATEMENT FOR OPERATORS OF A MOTOR VEHICLE - N.J.S.A. 39:4-50.2(e)"

- For a CDL/DWI arrest, officers are to use:

"DIVISION OF MOTOR VEHICLES STANDARD STATEMENT FOR OPERATORS OF A COMMERCIAL MOTOR VEHICLE - N.J.S.A. 39:3-10.24e"

All preceding Standard (Refusal) Statements will no longer be valid after that date.

Since these revisions do not become effective until Thursday, February 1, 2001, each law enforcement agency will have sufficient time to arrange for the reproduction and distribution of the new statements to all personnel and stations. Please note, however, that the content of the attached Standard Statements **cannot be altered or changed in any manner**, and cannot be translated to any other language.

To facilitate the duplication of the revision to these Standard Statements, and to minimize costs, a camera ready copy of each revised Standard Statement is attached. Each one has been formatted onto a single page and can be easily reproduced and incorporated into existing

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<sup>2</sup> On December 7, 1999, an advisory was sent to all County Prosecutors concerning P.L. 1999, c.185, and the application of these amendments on prosecutions pursuant to *N.J.S.A. 39:4-50, 39:4-50.4a* and *39:3-40*. In that advisory it was recommended that for the purposes of uniform enforcement, prosecutors treat these amendments as a sentence enhancement, not as an element of the underlying offense.

departmental forms. These Standard Statements are also accessible, in the Adobe Acrobat PDF format, on the Division of Criminal Justice Web Site at [www.njdcj.org](http://www.njdcj.org) through the link identified as "DMV Standard Refusal Statement," or through a search under the same key words.

Questions concerning these revised Standard Statements may be directed to the Prosecutors and Police Bureau, at (609) 984-2814, or to the Police Legal Advisor in County Prosecutor's Office of your county. Under separate cover, each County Prosecutor, will be provided with information concerning the manner in which refusal cases pre-dating the effective date can be prosecuted.

Attachments: Revised DMV Standard Statements for DWI & CDL/DWI offenses

c., w/attachments:

Attorney General John J. Farmer, Jr.  
First Assistant Attorney General Paul H. Zoubek  
All County Prosecutors  
Albert Ari, Acting Director, Division of Motor Vehicles  
Chief of Staff Debra L. Stone, Deputy Director Operations  
AAG Greta Gooden Brown, Chief, Prosecutors & Police Bureau  
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