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MEMORANDUM

TO: All County Prosecutors
All Municipal Prosecutors
Col. Joseph R. Fuentes, Superintendent, Division of State Police
All Law Enforcement Chief Executives

FROM: AAG Vaughn L. McKoy, Director
Division of Criminal Justice

DATE: June 8, 2004

**SUBJECT: Guidelines: Implementation Insurance Fraud Laws, Effective June 9, 2004
N.J.S.A. 39:3-29 & 39:3-29.1a - Warrant of Impoundment**

Guidelines below, developed by the Division of Criminal Justice to assist law enforcement agencies and prosecutors with the implementation of Laws of 2003, chapter 89, sections 78 and 79. P.L.2003, c.89, became effective on June 9, 2003, but sections 78 and 79 each had a delayed implementation date of June 9, 2004.¹ Please distribute these Guidelines immediately.

Section 78 amended *N.J.S.A.* 39:3-29 (which requires production and exhibition of the operators drivers' license, the vehicle registration and the insurance identification card for the vehicle begin operated) increasing the fine for a violation of this statute to \$150.

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On May 21, 2004, a Governor's Task Force on Motor Vehicle Fines, presented Recommendations to amend sections 78 & 79 of P.L. 2003, c.89. However, until such time as the Legislature takes action to implement those Recommendations, the provisions of *N.J.S.A.* 39:3-29 and *N.J.S.A.* 39:3-29.1a remain unchanged.



Section 79 enacted an entirely new statute, *N.J.S.A. 39:3-29.1a*. It requires a person charged with a violation of *N.J.S.A. 39:3-29* to produce, within 24 hours, to the issuing law enforcement agency the insurance identification card or other satisfactory proof of insurance for the vehicle which was being operated at the time of the violation. Failure to produce proof of insurance within 24 hours will result in the issuance of a warrant for the immediate impoundment of the vehicle that was being operated at the time of the offense.

Working with the Administrative Office of the Courts, this Division agreed to the use of a standardized form that will enable law enforcement officers, under the provisions of *N.J.S.A. 39:3-29.1a*, to apply to the Court for the issuance of a warrant for the immediate impoundment of the vehicle that was being operated at the time of the offense. This standardized form to obtain a Warrant of Impoundment consists of two parts: a Certification, to be completed by the law enforcement officer; and a Warrant of Impoundment, to be completed by a Judge. A copy of that form is appended to this memorandum. This standardized form is the only form that will be accepted by Courts in New Jersey.

Under separate cover, the Administrative Office of the Court has distributed this standardized form to municipal court judges, municipal court directors and municipal court administrators. Municipal Police Departments are to contact the Court Administrator of their Municipal Court to obtain the version of the form to be utilized by that Municipal Police Department. Multi-jurisdictional police and law enforcement agencies such as: the Division of State Police; other State law enforcement agencies (State Park Rangers, Fish & Game Wardens); County Police and County Park Police Departments or Sheriff Departments; and bi-state agencies, such as Port Authority Police Departments, will need to obtain the official version of the form from the Judiciary Internet web site (www.njcourtsonline.com or www.judiciary.state.nj.us) and then arrange for reproduction of the forms for use by those agencies.

In addition to the standardized form, this Division has prepared a Written Notice of Possible Impoundment, which must be given to the operator of the motor vehicle, when that person has been charged with failing to possess and exhibit proof of insurance, a violation of *N.J.S.A. 39:3-29*. That Written Notice of Possible Impoundment, informs the operator of the motor vehicle that he or she must comply with the provisions of *N.J.S.A. 39:3-29.1a*, within 24 hours, or that vehicle may be subject to impoundment. A copy of the Written Notice of Possible Impoundment is appended to this memorandum and is also available on the Division of Criminal Justice Internet web site (www.njdcj.org or www.njdcj.com).

Law enforcement officers must fully and completely familiarize themselves with the requirements of *N.J.S.A. 39:3-29*, as amended, and the provisions of the newly enacted statute, *N.J.S.A. 39:3-29.1a*, before applying to a court for a Warrant of Impoundment of any vehicle under these laws. The full text of each statute is appended to this memorandum.

If any law enforcement officer does not understand these statutory requirements, or has any questions concerning the implementation of these laws or these Guidelines, those questions must be directed through the appropriate chain of command in the law enforcement agency to the Municipal Prosecutor or the Office of the County Prosecutor. Under no circumstances are law enforcement officers to call or contact this Division or the Attorney General for advice regarding these Guidelines.

Preparation of the Certification portion of the standardized form to obtain a Warrant of Impoundment

The standardized form to obtain a Warrant of Impoundment consists of two parts. The upper half is a Certification statement to be completed by the law enforcement officer. This Certification must be completed, **in full**, before it is presented to the Court. On the exemplar attached to these Guidelines, each of the fields to be completed by the law enforcement officer has been numbered, *e.g.*, ①. Those numbers correspond to the explanations below.

- ① In the upper left-hand box, under “State of New Jersey v.,” the full name of the defendant, as identified on the Complaint-Summons (Traffic Ticket), charged with a violation of *N.J.S.A.* 39:3-29, is to be placed on the line marked “defendant.”
- ② In the first paragraph on the first line, insert the numeric date, Month, Year, and time in the appropriate blank fields. Circle the “a.m.” or “p.m.,” designation following the time entry.
- ③ On the second line insert the number of the Complaint-Summons (Traffic Ticket) issued to the defendant.
- ④ Next, and of critical importance, all of the fields for the Model Year, Make, Model, License Plate #, and the VIN number of the vehicle, identified on the Complaint-Summons (Traffic Ticket) must be completed. **Note:** If the VIN number is missing, the Court will not consider the application for a Warrant of Impoundment.
- ⑤ In order to complete the field “Registered to,” the law enforcement officer must obtain a printout from the N.J. Motor Vehicle Commission (NJ MVC), formerly the Division of Motor Vehicles, database, containing the information pertaining to the registration and registered owner of the vehicle identified on the Complaint-Summons (Traffic Ticket). Using the MVC printout, insert the name of the registered owner of the vehicle identified on the Complaint-Summons (Traffic Ticket), then insert, after the word “at,” the address at which that vehicle is registered.

- ⑥ In the next paragraph, the law enforcement officer is to insert the name and address of the Police Department, State Police Station or other law enforcement entity where the defendant was to present proof of insurance, within 24 hours of the issuance of the Complaint-Summons (Traffic Ticket). Municipal Police Department may elect to have this field pre-printed at the time the standardized form is prepared and distributed.
- ⑦ The law enforcement officer will then complete the Certification by **printing** his/her name and badge number on the lines indicated, and then write in the date and sign the Certification signature line.

Presentation to the Court to Obtain a Warrant of Impoundment

If a law enforcement officer intends to seek a Warrant of Impoundment under the provisions of *N.J.S.A. 39:3-29.1a*, the officer must complete the Certification portion of the standardized form and present it, along with a copy of the Written Notice of Possible Impoundment and a copy of the MVC printout pertaining to the vehicle to be impounded, to a Judge.

The procedure for appearing before the Court and obtaining a Warrant of Impoundment, will require coordination and cooperation between law enforcement agencies and the courts. Therefore, it is recommended that, law enforcement officers seeking a Warrant of Impoundment make their request during the normal business hours of the court. The law enforcement officer should contact the appropriate Court Administrator and inform him or her that the law enforcement officer wishes to appear before the Court to apply for a Warrant of Impoundment under the provisions of *N.J.S.A. 39:3-29.1a*. This will permit the Court to arrange for the necessary personnel to be present, and for the proceeding to be transcribed. In addition, the law enforcement officer should also inform the Municipal Prosecutor of that jurisdiction that the Court will be hearing an application for a Warrant of Impoundment, under, *N.J.S.A. 39:3-29.1a*.

At the hearing the law enforcement officer should be prepared to present, to the Court, the completed Certification, along with a copy of the Written Notice of Possible Impoundment and a copy of the MVC printout pertaining to the vehicle sought to be impounded. If the Municipal Prosecutor is present, he or she may elect to make the presentation to the Court.

After reviewing the Certification and related documents, the Court will have the option of issuing or denying the Warrant of Impoundment. If the Judge determines to issue the Warrant of Impoundment, he/she will date and sign the Warrant and present the original to the law enforcement officer.

A copy of the Warrant, shall be forwarded, by mail, by the law enforcement officer or law enforcement agency, to the Chief Administrator of the NJ MVC.

A dated and signed Warrant of Impoundment will then empower any law enforcement officer, to whom the Warrant is provided, to execute the Warrant, pursuant to the provisions of *N.J.S.A. 39:3-29.1a*. However, local police agencies should consult with their Municipal Attorney and Municipal Prosecutor regarding the issuance and execution of Warrants of Impoundment originating from other jurisdictions or municipalities.

As a convenience to law enforcement, this memorandum and its attachments will be available on the Division of Criminal Justice Internet web site (www.njdcj.org or www.njdcj.com), under Guidelines.

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Attachments

- c. Attorney General Peter C. Harvey
First Assistant Attorney General Mariellen Dugan
AAG Daniel Giaquinto, Director, Office of State Police Affairs
Peter Traum, Chief of Staff, Division of Criminal Justice
AAG Jessica S. Oppenheim, Chief, Prosecutors Supervision & Coordination Bureau
AAG Greta Gooden Brown, Insurance Fraud Prosecutor
SDAG Stephen Moore, Office of the Insurance Fraud Prosecutor
DAG Stephen Monson, Division of Criminal Justice
DAG Neil Magnus, Division of Law
Sharon Harrington, Chief Administrator, NJ MVC
Hon. Richard D. Williams, J.A.D., Administrative Director,
Administrative Office of the Courts
John P. McCarthy, Jr., Director, Administrative Office of the Courts
Robert Smith, Asst. Director, Municipal Court Services, AOC

Distribution List: State, Bi-State & Other Law Enforcement Agencies

State Law Enforcement Agencies

Dept. Human Services Police, Chief R. Brennan
Division of Fish & Wildlife, Chief R. Winkel
State Park Service, Chief T. Genardi
New Jersey Transit Police, Chief J. Bober

Bi-State Law Enforcement Agencies

Port Authority of NY & NJ Police, Dir. S. Plumeri
Palisades Interstate Parkway Police, Chief J. Parr
Delaware River & Bay Authority Police, Col. J. McCarnan
Delaware River Port Authority Police, Chief Dir. V. Borrelli
Burlington County Bridge Commission Police, Dir. G. Daniels

Federal Law Enforcement Agencies

Department of Defense Police, Fort Dix, Fort Monmouth, Lakehurst
Picatinny Arsenal Police Department
US Air Force Security Police, McGuire AFB
US Naval Security Department, USN Weapons Station Earle
National Park Service Police, Sandy Hook, Morristown Nat'l Historic Park

Educational Institution Police Departments

Brookdale Community College, Chief of Police
Burlington County College, Director Security & Safety
College of New Jersey, Police Director
Essex County College, Chief of Police
Kean University, Chief, Dept. of Public Safety & Police
Middlesex County College, Chief of Police
Monmouth University, Chief of Police
Montclair State University Police, Chief of Police
NJ Institute of Technology, Chief, Public Safety Dept.
Richard Stockton College of NJ, Chief of Police
Rowan College, Police Director
Rutgers University Police, Essex, Middlesex, Camden
UM&D, NJ, Dep. Chief of Police
William Paterson University, Chief of Police

Instructions for Law Enforcement Officers

*The Written Notice of Possible Impoundment, below, **Must** be Given the Operator of a Motor Vehicle, When That Person Has Been Charged With a Violation of N.J.S.A. 39:3-29, Failure to Possess and Exhibit Proof of Insurance or Insurance Identification*

Written Notice of Possible Impoundment

You have been issued a Traffic Ticket charging you with failing to possess and exhibit an insurance identification card for the motor vehicle you were operating at that time, in violation of N.J.S.A. 39:3-29. Within 24 hours of the time entered on the Traffic Ticket issued to you, N.J.S.A. 39:3-29.1a.a, requires you to present the insurance identification card or other satisfactory proof of insurance for this motor vehicle, to the law enforcement agency that issued that Traffic Ticket. If you do not comply with those requirements within 24 hours, the law enforcement agency may apply to the Court for a Warrant of Impoundment of the motor vehicle you were operating at the time of the Traffic Ticket was issued. If the Court issues a Warrant of Impoundment for the motor vehicle you were operating, that vehicle will be subject to immediate impoundment under the provisions of N.J.S.A. 39:3-29.1a.a. The registered owner of that motor vehicle will be responsible for the costs for removal and storage of that vehicle.

WARRANT OF IMPOUNDMENT - A.O.C. STANDARDIZED FORM

State of New Jersey v. ① _____ Defendant	Certification
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I certify that on the ② day of ②, 200 ②, at ② a.m./p.m., I issued Complaint-Summons # ③ to the above-named defendant for failing to possess and exhibit an insurance identification card in violation of N.J.S.A. 39:3-29 while operating a:

Year: ④ **Make:** ④ **Model:** ④

License Plate #: ④ **VIN #:** ④

Registered to: ⑤ **at:** ⑤
(Name Registered Owner) (Address & Town)

Immediately thereafter, I provided a Written Notice of Possible Impoundment to the defendant of his/her responsibility under N.J.S.A. 39:3-29.1a to provide proof of insurance to the ⑥, within 24 hours, a copy of which is attached. (Name & Address of Law Enforcement Agency)

More than 24 hours have elapsed since I issues this Complaint-Summons to the defendant and the defendant has failed to provide an insurance identification card or other satisfactory proof of insurance at the law enforcement agency indicated above.

Therefore, I request that the Court issue a Warrant of Impoundment for this vehicle pursuant to N.J.S.A. 39:3-29.1a.

Submitted by: ⑦ Badge #: ⑦
(PRINT Name of law enforcement officer)

⑦ ⑦
(Date) (Signature of law enforcement officer)

State of New Jersey v. _____ Defendant	WARRANT OF IMPOUNDMENT <u>N.J.S.A. 39:3-29.1a</u>	Municipal Court of Anytown 123 Main Street Anytown, N.J. 00000
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THIS MATTER having been brought to the attention of this Court by the above Certification signed by a duly authorized law enforcement officer, and the Court having considered the Certification and supporting document(s) submitted, IT IS THEREFORE ORDERED ON THIS _____ day of _____, 200____ that this Warrant of Impoundment be issued as a result of the defendant's failure to provide an insurance identification card or other satisfactory proof of insurance within 24 hours of the above referenced Complaint-Summons for failing to possess or exhibit an insurance identification card in violation of N.J.S.A. 39:3-29.

Any law enforcement officer to whom this Warrant of Impoundment is presented is hereby commanded to impound the above-described vehicle and remove it to a storage space or garage, designated for that purpose.

(Date)

_____, J.M.C.

P.L. 2003, c. 89, §§ 78, 79, eff. June 9, 2004

N.J.S.A. 39:3-29. License, registration certificate and insurance identification card; possession; exhibit upon request; violations; fine; defense

The driver's license, the registration certificate of a motor vehicle and an insurance identification card shall be in the possession of the driver or operator at all times when he is in charge of a motor vehicle on the highways of this State.

The driver or operator shall exhibit his driver's license and an insurance identification card, and the holder of a registration certificate or the operator or driver of a motor vehicle for which a registration certificate has been issued, whether or not the holder, driver or operator is a resident of this State, shall also exhibit the registration certificate, when requested so to do by a police officer or judge, while in the performance of the duties of his office, and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motor vehicle for which it was issued; and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motor vehicle for which it was issued.

Any person violating this section shall be subject to a fine of \$150, of which \$25 shall be deposited in the Uninsured Motorist Prevention Fund established by section 2 of P.L.1983, c. 141 (C.39:6B-3).

If a person charged with a violation of this section can exhibit his driver's license, insurance identification card and registration certificate, which were valid on the day he was charged, to the judge of the municipal court before whom he is summoned to answer to the charge, such judge may dismiss the charge. However, the judge may impose court costs.

P.L. 2003, c. 89, §§ 78, 79, eff. June 9, 2004

N.J.S.A. 39:3-29.1a. Failure to provide proof of insurance; impoundment and sale of vehicle

a. Upon the issuance of a summons for failing to possess or exhibit an insurance identification card in violation of R.S.39:3-29, the violator or registrant shall have 24 hours from the time of the citation to provide the issuing law enforcement agency with the insurance identification card, or other satisfactory proof of insurance. Failure to provide the insurance identification card or other satisfactory proof of insurance within the 24 hour time frame shall result in the issuance of a warrant for the immediate impoundment of the vehicle that was being operated when the summons was issued. A motor vehicle impounded pursuant to the provisions of this subsection shall be removed to a storage space or garage. The registrant shall be responsible for the cost of the removal and storage of the impounded motor vehicle.

b. (1) If the registrant fails to claim a motor vehicle impounded pursuant to subsection a. of this section and pay the reasonable costs of removal and storage by midnight of the 30th day following impoundment, along with a fine of \$100 to cover the administrative costs of the municipality wherein the violation occurred, and after a hearing, the municipality may sell the motor vehicle at public auction. The municipality shall give notice of the sale by certified mail to the registrant of the motor vehicle and to the holder of any security interest filed with the New Jersey Motor Vehicle Commission, and by publication in a form to be prescribed by the director by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the motor vehicle has been impounded.

(2) At any time prior to the sale, the registrant or other person entitled to the motor vehicle may reclaim possession of it upon providing satisfactory proof of motor vehicle liability insurance coverage and payment of the reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties; provided, however, if the other person entitled to the motor vehicle is a lessor or the holder of a lien on the motor vehicle, he may reclaim the motor vehicle without payment. In such cases, the registrant shall be liable for all outstanding costs, fines and penalties, and the municipality shall have a lien against the property and income of that registrant for the total amount of those outstanding costs, fines and penalties.

(3) Any proceeds obtained from the sale of a motor vehicle at public auction pursuant to paragraph (1) of this subsection in excess of the amount owed to the municipality for the reasonable costs of removal and storage of the motor vehicle and any outstanding fines or penalties shall be returned to the registrant of the vehicle.