

[5/13/05 - 1:37 pm] This afternoon's Appellate Division opinion in State v. Chambers makes it clear that the sentencing amendments to N.J.S.A. 39:4-50(a) that went into effect on January 20, 2004 are not to be applied retroactively.

The defendant in Chambers was charged and convicted of drunk driving during 2003. He was given a 6-month d/l suspension in municipal court. His municipal appeal was heard and decided after January 20th of 2004. Upon conviction after his trial de novo in Superior Court, the defendant requested, and was granted a 3 month license loss. (Defendant's conviction had been based upon his operation while under the influence of alcohol. Breath test readings in his case had been excluded.)

Thereafter, the State appealed the length of the license loss, claiming that it constituted an illegal sentence and that the new sentencing provisions of N.J.S.A. 39:4-50(a) do not apply retroactively.

The Appellate Division ruled that N.J.S.A. 1:1-15 prohibits a retroactive application of the January 2004 amendments to N.J.S.A. 39:4-50(a) and accordingly, the 3-month suspension was illegal.

This case is also important in that it is the first time a court of appellate authority has had the occasion to construe the January 20th amendments to the drunk driving law. It also contains significant discussion about the right of the State to appeal an illegal sentence.

A copy of State v. Chambers is attached.

(c) Muni-mail 2005 - all rights reserved