

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 824

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JUNE 17, 2019

Sponsored by:

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District 22 (Middlesex, Somerset and Union)
Assemblyman JOSEPH A. LAGANA
District 38 (Bergen and Passaic)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Cardinale, Diegnan, Stack, Assemblywomen Chaparro,
N.Munoz, Mosquera, Assemblymen Zwicker, DePhillips, Holley,
Assemblywomen Reynolds-Jackson, Murphy, Assemblyman Karabinchak
and Assemblywoman Quijano

SYNOPSIS

Revises certain drunk driving penalties; expands use of ignition interlock devices.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 20, 2019.

(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning certain drunk driving offenses, amending
2 various parts of the statutory law, and supplementing P.L.1999,
3 c.417 (C.39:4-50.16 et al.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) The Legislature finds and declares that:

9 a. State law has required repeat drunk drivers and drunk drivers
10 with a high blood alcohol concentration (BAC) to install an ignition
11 interlock device since January 2001, but installation of these
12 devices is not mandatory for other first time offenders.

13 b. Because a majority of drunk drivers, including first time
14 offenders, often continue to drive with suspended licenses, ignition
15 interlock devices are more effective in deterring drunk driving than
16 license suspension.

17 c. Ignition interlock devices are paid for by the offender and
18 constitute a low cost solution to a dangerous and often fatal activity
19 that imposes large social and economic costs on society. Studies
20 indicate that the potential for interlock device programs to prevent
21 alcohol-involved driving and alcohol-related crashes is most
22 significant when the program is applied to a broader cross-section
23 of offenders and a higher proportion of offenders are required to
24 install the devices. To protect the public safety, states that currently
25 do not require mandatory participation for all first time offenders
26 should adopt strong interlock device programs to prevent future
27 costly alcohol-related fatal crashes.

28 d. For example, according to a recent national study by the
29 Insurance Institute for Highway Safety (IIHS), state laws mandating
30 interlock devices for drunk drivers reduced the number of drivers in
31 fatal crashes with a blood alcohol content of 0.08 percent or higher
32 by 16 percent compared to states with no interlock law, three
33 percent when ignition interlock devices were required for repeat
34 offenders, and eight percent when required for first time and repeat
35 offenders.

36 e. Reportedly, ignition interlock devices have prevented more
37 than 73,740 attempts to drive with a BAC over the legal limit of
38 0.08 percent in this State over the past 11 years.

39 f. Numerous organizations support requiring the use of ignition
40 interlock devices by all convicted drunk drivers, including all first-
41 time offenders, including: Mothers Against Drunk Driving,
42 Advocates for Auto and Highway Safety, American Automobile
43 Association, American Trucking Association, Auto Alliance,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 20, 2019.

1 Centers for Disease Control and Prevention, Foundation for
2 Advancing Alcohol Responsibility, Insurance Institute for Highway
3 Safety, International Association of Chiefs of Police, National
4 Academy of Sciences, National Football League, National Safety
5 Council, and National Transportation Safety Board.

6 g. Therefore, it is fitting and proper to require all first time
7 drunk driving offenders in this State, not just high BAC offenders,
8 to install an ignition interlock device.

9

10 2. R.S.39:4-50 is amended to read as follows:

11 39:4-50. (a) **【**Except as provided in subsection (g) of this
12 section, **a】** A person who operates a motor vehicle while under the
13 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
14 producing drug, or operates a motor vehicle with a blood alcohol
15 concentration of 0.08% or more by weight of alcohol in the
16 defendant's blood or permits another person who is under the
17 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
18 producing drug to operate a motor vehicle **【**owned by him or in his**】**
19 the person owns or which is in the person's custody or control or
20 permits another to operate a motor vehicle with a blood alcohol
21 concentration of 0.08% or more by weight of alcohol in the
22 defendant's blood shall be subject:

23 (1) For the first offense:

24 (i) if the person's blood alcohol concentration is 0.08% or
25 higher but less than 0.10%, or the person operates a motor vehicle
26 while under the influence of intoxicating liquor, or the person
27 permits another person who is under the influence of intoxicating
28 liquor to operate a motor vehicle owned by him or in his custody or
29 control or permits another person with a blood alcohol
30 concentration of 0.08% or higher but less than 0.10% to operate a
31 motor vehicle, to a fine of not less than \$250 nor more than \$400
32 and a period of detainment of not less than 12 hours nor more than
33 48 hours spent during two consecutive days of not less than six
34 hours each day and served as prescribed by the program
35 requirements of the Intoxicated Driver Resource Centers established
36 under subsection (f) of this section and, in the discretion of the
37 court, a term of imprisonment of not more than 30 days **【and】** . In
38 addition, the court shall **【forthwith】** order the person to forfeit
39 **【his】** the right to operate a motor vehicle over the highways of this
40 State **【for a period of three months】** until the person installs an
41 ignition interlock device in one motor vehicle the person owns,
42 leases, or principally operates, whichever the person most often
43 operates, for the purpose of complying with the provisions of
44 P.L.1999, c.417 (C.39:4-50.16 et al.);

45 (ii) if the person's blood alcohol concentration is 0.10% or
46 higher, or the person operates a motor vehicle while under the
47 influence of narcotic, hallucinogenic or habit-producing drug, or the

1 person permits another person who is under the influence of
2 narcotic, hallucinogenic or habit-producing drug to operate a motor
3 vehicle owned by him or in his custody or control, or permits
4 another person with a blood alcohol concentration of 0.10% or more
5 to operate a motor vehicle, to a fine of not less than \$300 nor more
6 than \$500 and a period of detainment of not less than 12 hours nor
7 more than 48 hours spent during two consecutive days of not less
8 than six hours each day and served as prescribed by the program
9 requirements of the Intoxicated Driver Resource Centers established
10 under subsection (f) of this section and, in the discretion of the
11 court, a term of imprisonment of not more than 30 days **[and]**;

12 in the case of a person who is convicted of operating a motor
13 vehicle while under the influence of a narcotic, hallucinogenic or
14 habit-producing drug or permitting another person who is under the
15 influence of narcotic, hallucinogenic or habit-producing drug to
16 operate a motor vehicle owned by the person or under the person's
17 custody or control, the person shall **[forthwith]** forfeit **[his]** the
18 right to operate a motor vehicle over the highways of this State for a
19 period of not less than seven months nor more than one year;

20 in the case of a person whose blood alcohol concentration is
21 0.10% or higher but less than 0.15%, the person shall forfeit the
22 right to operate a motor vehicle over the highways of this State until
23 the person installs an ignition interlock device in one motor vehicle
24 the person owns, leases, or principally operates, whichever the
25 person most often operates, for the purpose of complying with the
26 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

27 in the case of a person whose blood alcohol concentration is
28 0.15% or higher, the person shall forfeit the right to operate a motor
29 vehicle over the highways of this State for a period of not less than
30 four months or more than six months following installation of an
31 ignition interlock device in one motor vehicle the person owns,
32 leases, or principally operates, whichever the person most often
33 operates, for the purpose of complying with the provisions of
34 P.L.1999, c.417 (C.39:4-50.16 et al.);

35 (iii) **[For a first offense, a person also shall be subject to the**
36 **provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).]** Deleted by
37 amendment, P.L. c. (pending before the Legislature as this bill)

38 (2) For a second violation, a person shall be subject to a fine of
39 not less than \$500 nor more than \$1,000, and shall be ordered by
40 the court to perform community service for a period of 30 days,
41 which shall be of such form and on **[such]** terms **[as]** the court
42 shall deem appropriate under the circumstances, and shall be
43 sentenced to imprisonment for a term of not less than 48
44 consecutive hours, which shall not be suspended or served on
45 probation, **[nor]** or more than 90 days, and shall forfeit **[his]** the
46 right to operate a motor vehicle over the highways of this State for a

1 period of not less than one year or more than two years upon
2 conviction~~], and after]~~.

3 ~~After~~ the expiration of ~~the license forfeiture~~ period, ~~he~~
4 ~~the person~~ may make application to the Chief Administrator of the
5 New Jersey Motor Vehicle Commission for a license to operate a
6 motor vehicle, which application may be granted at the discretion of
7 the chief administrator, consistent with subsection (b) of this
8 section. For a second violation, a person also shall be required to
9 install an ignition interlock device under the provisions of P.L.1999,
10 c.417 (C.39:4-50.16 et al.).

11 (3) For a third or subsequent violation, a person shall be subject
12 to a fine of \$1,000, and shall be sentenced to imprisonment for a
13 term of not less than 180 days in a county jail or workhouse, except
14 that the court may lower such term for each day, not exceeding 90
15 days, served participating in a drug or alcohol inpatient
16 rehabilitation program approved by the Intoxicated Driver Resource
17 Center and shall thereafter forfeit ~~his~~ ~~the~~ right to operate a motor
18 vehicle over the highways of this State for ~~10~~ eight years.

19 For a third or subsequent violation, a person also shall be
20 required to install an ignition interlock device under the provisions
21 of P.L.1999, c.417 (C.39:4-50.16 et al.).

22 As used in this section, the phrase "narcotic, hallucinogenic or
23 habit-producing drug" includes an inhalant or other substance
24 containing a chemical capable of releasing any toxic vapors or
25 fumes for the purpose of inducing a condition of intoxication, such
26 as any glue, cement or any other substance containing one or more
27 of the following chemical compounds: acetone and acetate, amyl
28 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl
29 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,
30 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or
31 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous
32 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
33 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or
34 any other chemical substance capable of causing a condition of
35 intoxication, inebriation, excitement, stupefaction or the dulling of
36 the brain or nervous system as a result of the inhalation of the
37 fumes or vapors of such chemical substance.

38 Whenever an operator of a motor vehicle has been involved in an
39 accident resulting in death, bodily injury or property damage, a
40 police officer shall consider that fact along with all other facts and
41 circumstances in determining whether there are reasonable grounds
42 to believe that person was operating a motor vehicle in violation of
43 this section.

44 A conviction of a violation of a law of a substantially similar
45 nature in another jurisdiction, regardless of whether that jurisdiction
46 is a signatory to the Interstate Driver License Compact pursuant to
47 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior
48 conviction under this subsection unless the defendant can

1 demonstrate by clear and convincing evidence that the conviction in
2 the other jurisdiction was based exclusively upon a violation of a
3 proscribed blood alcohol concentration of less than 0.08%.

4 If the driving privilege of any person is under revocation or
5 suspension for a violation of any provision of this Title or Title 2C
6 of the New Jersey Statutes at the time of any conviction for a
7 violation of this section, the revocation or suspension period
8 imposed shall commence as of the date of termination of the
9 existing revocation or suspension period. In the case of any person
10 who at the time of the imposition of sentence is less than 17 years
11 of age, the forfeiture, suspension or revocation of the driving
12 privilege imposed by the court under this section shall commence
13 immediately, run through the offender's seventeenth birthday and
14 continue from that date for the period set by the court pursuant to
15 paragraphs (1) through (3) of this subsection. A court that imposes
16 a term of imprisonment for a first or second offense under this
17 section may sentence the person so convicted to the county jail, to
18 the workhouse of the county wherein the offense was committed, to
19 an inpatient rehabilitation program or to an Intoxicated Driver
20 Resource Center or other facility approved by the chief of the
21 Intoxicated Driving Program Unit in the Division of Mental Health
22 and Addiction Services in the Department of Health. For a third or
23 subsequent offense a person shall not serve a term of imprisonment
24 at an Intoxicated Driver Resource Center as provided in subsection
25 (f).

26 A person who has been convicted of a previous violation of this
27 section need not be charged as a second or subsequent offender in
28 the complaint made against him in order to render him liable to the
29 punishment imposed by this section on a second or subsequent
30 offender, but if the second offense occurs more than 10 years after
31 the first offense, the court shall treat the second conviction as a first
32 offense for sentencing purposes and if a third offense occurs more
33 than 10 years after the second offense, the court shall treat the third
34 conviction as a second offense for sentencing purposes.

35 (b) A person convicted under this section must satisfy the
36 screening, evaluation, referral, program and fee requirements of the
37 Division of Mental Health and Addiction Services' Intoxicated
38 Driving Program Unit, and of the Intoxicated Driver Resource
39 Centers and a program of alcohol and drug education and highway
40 safety, as prescribed by the chief administrator. The sentencing
41 court shall inform the person convicted that failure to satisfy such
42 requirements shall result in a mandatory two-day term of
43 imprisonment in a county jail and a driver license revocation or
44 suspension and continuation of revocation or suspension until such
45 requirements are satisfied, unless stayed by court order in
46 accordance with the Rules Governing the Courts of the State of
47 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall
48 forward to the Division of Mental Health and Addiction Services'

1 Intoxicated Driving Program Unit a copy of a person's conviction
2 record. A fee of \$100 shall be payable to the Alcohol Education,
3 Rehabilitation and Enforcement Fund established pursuant to
4 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
5 Intoxicated Driving Program Unit.

6 (c) Upon conviction of a violation of this section, the court shall
7 collect forthwith the New Jersey driver's license or licenses of the
8 person so convicted and forward such license or licenses to the
9 chief administrator. The court shall inform the person convicted
10 that if he is convicted of personally operating a motor vehicle
11 during the period of license suspension imposed pursuant to
12 subsection (a) of this section, he shall, upon conviction, be subject
13 to the penalties established in R.S.39:3-40. The person convicted
14 shall be informed orally and in writing. A person shall be required
15 to acknowledge receipt of that written notice in writing. Failure to
16 receive a written notice or failure to acknowledge in writing the
17 receipt of a written notice shall not be a defense to a subsequent
18 charge of a violation of R.S.39:3-40. In the event that a person
19 convicted under this section is the holder of any out-of-State
20 driver's license, the court shall not collect the license but shall
21 notify forthwith the chief administrator, who shall, in turn, notify
22 appropriate officials in the licensing jurisdiction. The court shall,
23 however, revoke the nonresident's driving privilege to operate a
24 motor vehicle in this State, in accordance with this section. Upon
25 conviction of a violation of this section, the court shall notify the
26 person convicted, orally and in writing, of the penalties for a
27 second, third or subsequent violation of this section. A person shall
28 be required to acknowledge receipt of that written notice in writing.
29 Failure to receive a written notice or failure to acknowledge in
30 writing the receipt of a written notice shall not be a defense to a
31 subsequent charge of a violation of this section.

32 (d) The chief administrator shall promulgate rules and
33 regulations pursuant to the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program
35 of alcohol education and highway safety, as prescribed by this act.

36 (e) Any person accused of a violation of this section who is
37 liable to punishment imposed by this section as a second or
38 subsequent offender shall be entitled to the same rights of discovery
39 as allowed defendants pursuant to the Rules Governing the Courts
40 of the State of New Jersey.

41 (f) The counties, in cooperation with the Division of Mental
42 Health and Addiction Services and the commission, but subject to
43 the approval of the Division of Mental Health and Addiction
44 Services, shall designate and establish on a county or regional basis
45 Intoxicated Driver Resource Centers. These centers shall have the
46 capability of serving as community treatment referral centers and as
47 court monitors of a person's compliance with the ordered treatment,
48 service alternative or community service. All centers established

1 pursuant to this subsection shall be administered by a counselor
2 certified by the **【Alcohol and Drug Counselor】** Addiction
3 Professionals Certification Board of New Jersey or other
4 professional with a minimum of five years' experience in the
5 treatment of alcoholism. All centers shall be required to develop
6 individualized treatment plans for all persons attending the centers;
7 provided that the duration of any ordered treatment or referral shall
8 not exceed one year. It shall be the center's responsibility to
9 establish networks with the community alcohol and drug education,
10 treatment and rehabilitation resources and to receive monthly
11 reports from the referral agencies regarding a person's participation
12 and compliance with the program. Nothing in this subsection shall
13 bar these centers from developing their own education and
14 treatment programs; provided that they are approved by the
15 Division of Mental Health and Addiction Services.

16 Upon a person's failure to report to the initial screening or any
17 subsequent ordered referral, the Intoxicated Driver Resource Center
18 shall promptly notify the sentencing court of the person's failure to
19 comply.

20 Required detention periods at the Intoxicated Driver Resource
21 Centers shall be determined according to the individual treatment
22 classification assigned by the Intoxicated Driving Program Unit.
23 Upon attendance at an Intoxicated Driver Resource Center, a person
24 shall be required to pay a per diem fee of \$75 for the first offender
25 program or a per diem fee of \$100 for the second offender program,
26 as appropriate. Any increases in the per diem fees after the first full
27 year shall be determined pursuant to rules and regulations adopted
28 by the Commissioner of Health in consultation with the Governor's
29 Council on Alcoholism and Drug Abuse pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.).

32 The centers shall conduct a program of alcohol and drug
33 education and highway safety, as prescribed by the chief
34 administrator.

35 The Commissioner of Health shall adopt rules and regulations
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), in order to effectuate the purposes of this
38 subsection.

39 (g) **【**When a violation of this section occurs while:

40 (1) on any school property used for school purposes which is
41 owned by or leased to any elementary or secondary school or school
42 board, or within 1,000 feet of such school property;

43 (2) driving through a school crossing as defined in R.S.39:1-1 if
44 the municipality, by ordinance or resolution, has designated the
45 school crossing as such; or

46 (3) driving through a school crossing as defined in R.S.39:1-1
47 knowing that juveniles are present if the municipality has not
48 designated the school crossing as such by ordinance or resolution,

1 the convicted person shall: for a first offense, be fined not less than
2 \$500 or more than \$800, be imprisoned for not more than 60 days
3 and have his license to operate a motor vehicle suspended for a
4 period of not less than one year or more than two years; for a
5 second offense, be fined not less than \$1,000 or more than \$2,000,
6 perform community service for a period of 60 days, be imprisoned
7 for not less than 96 consecutive hours, which shall not be suspended
8 or served on probation, nor more than 180 days, except that the
9 court may lower such term for each day, not exceeding 90 days,
10 served performing community service in such form and on such
11 terms as the court shall deem appropriate under the circumstances
12 and have his license to operate a motor vehicle suspended for a
13 period of four years; and, for a third offense, be fined \$2,000,
14 imprisoned for 180 days in a county jail or workhouse, except that
15 the court may lower such term for each day, not exceeding 90 days,
16 served participating in a drug or alcohol inpatient rehabilitation
17 program approved by the Intoxicated Driver Resource Center, and
18 have his license to operate a motor vehicle suspended for a period
19 of 20 years; the period of license suspension shall commence upon
20 the completion of any prison sentence imposed upon that person.

21 A map or true copy of a map depicting the location and
22 boundaries of the area on or within 1,000 feet of any property used
23 for school purposes which is owned by or leased to any elementary
24 or secondary school or school board produced pursuant to section 1
25 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
26 paragraph (1) of this subsection.

27 It shall not be relevant to the imposition of sentence pursuant to
28 paragraph (1) or (2) of this subsection that the defendant was
29 unaware that the prohibited conduct took place while on or within
30 1,000 feet of any school property or while driving through a school
31 crossing. Nor shall it be relevant to the imposition of sentence that
32 no juveniles were present on the school property or crossing zone at
33 the time of the offense or that the school was not in session.】

34 Deleted by amendment, P.L. c. (pending before the Legislature
35 as this bill)

36 (h) A court also may order a person convicted pursuant to
37 subsection (a) of this section, to participate in a supervised
38 visitation program as either a condition of probation or a form of
39 community service, giving preference to those who were under the
40 age of 21 at the time of the offense. Prior to ordering a person to
41 participate in such a program, the court may consult with any
42 person who may provide useful information on the defendant's
43 physical, emotional and mental suitability for the visit to ensure that
44 it will not cause any injury to the defendant. The court also may
45 order that the defendant participate in a counseling session under
46 the supervision of the Intoxicated Driving Program Unit prior to
47 participating in the supervised visitation program. The supervised
48 visitation program shall be at one or more of the following facilities

1 which have agreed to participate in the program under the
2 supervision of the facility's personnel and the probation department:

3 (1) a trauma center, critical care center or acute care hospital
4 having basic emergency services, which receives victims of motor
5 vehicle accidents for the purpose of observing appropriate victims
6 of drunk drivers and victims who are, themselves, drunk drivers;

7 (2) a facility which cares for advanced alcoholics or drug
8 abusers, to observe persons in the advanced stages of alcoholism or
9 drug abuse; or

10 (3) if approved by a county medical examiner, the office of the
11 county medical examiner or a public morgue to observe appropriate
12 victims of vehicle accidents involving drunk drivers.

13 As used in this section, "appropriate victim" means a victim
14 whose condition is determined by the facility's supervisory
15 personnel and the probation officer to be appropriate for
16 demonstrating the results of accidents involving drunk drivers
17 without being unnecessarily gruesome or traumatic to the
18 defendant.

19 If at any time before or during a visitation the facility's
20 supervisory personnel and the probation officer determine that the
21 visitation may be or is traumatic or otherwise inappropriate for that
22 defendant, the visitation shall be terminated without prejudice to the
23 defendant. The program may include a personal conference after
24 the visitation, which may include the sentencing judge or the judge
25 who coordinates the program for the court, the defendant,
26 defendant's counsel, and, if available, the defendant's parents to
27 discuss the visitation and its effect on the defendant's future
28 conduct. If a personal conference is not practicable because of the
29 defendant's absence from the jurisdiction, conflicting time
30 schedules, or any other reason, the court shall require the defendant
31 to submit a written report concerning the visitation experience and
32 its impact on the defendant. The county, a court, any facility visited
33 pursuant to the program, any agents, employees, or independent
34 contractors of the court, county, or facility visited pursuant to the
35 program, and any person supervising a defendant during the
36 visitation, are not liable for any civil damages resulting from injury
37 to the defendant, or for civil damages associated with the visitation
38 which are caused by the defendant, except for willful or grossly
39 negligent acts intended to, or reasonably expected to result in, that
40 injury or damage.

41 The Supreme Court may adopt court rules or directives to
42 effectuate the purposes of this subsection.

43 (i) In addition to any other fine, fee, or other charge imposed
44 pursuant to law, the court shall assess a person convicted of a
45 violation of the provisions of this section a surcharge of \$125, of
46 which amount \$50 shall be payable to the municipality in which the
47 conviction was obtained, \$50 shall be payable to the Treasurer of
48 the State of New Jersey for deposit into the General Fund, and \$25

1 which shall be payable as follows: in a matter where the summons
2 was issued by a municipality's law enforcement agency, to that
3 municipality to be used for the cost of equipping police vehicles
4 with mobile video recording systems pursuant to the provisions of
5 section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the
6 summons was issued by a county's law enforcement agency, to that
7 county; and in a matter where the summons was issued by a State
8 law enforcement agency, to the General Fund.

9 (cf: P.L2014, c.54, s.2)

10
11 3. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to
12 read as follows:

13 2. a. **【Except as provided in subsection b. of this section, the】**
14 **The** municipal court shall **【revoke the right to operate a motor**
15 **vehicle of】** order any **【operator】** person who, after being arrested
16 for a violation of R.S.39:4-50 or section 1 of P.L.1992, c.189
17 (C.39:4-50.14), **【shall refuse】** refuses to submit upon request, to a
18 test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2)
19 **【when requested to do so, for not less than seven months or more**
20 **than one year unless】**:

21 (1) if the refusal was in connection with a first offense under this
22 section, to forfeit the right to operate a motor vehicle over the
23 highways of this State until the person installs an ignition interlock
24 device in one motor vehicle owned, leased, or principally operated
25 by the person, whichever the person most often operates, for the
26 purpose of complying with the provisions of P.L.1999, c.417
27 (C.39:4-50.16 et al.);

28 (2) if the refusal was in connection with a second offense under
29 this section, 【in which case the revocation period shall be for two
30 years or unless】, to forfeit the right to operate a motor vehicle over
31 the highways of this State for a period of not less than one year or
32 more than two years following the installation of an ignition
33 interlock device in one motor vehicle owned, leased, or principally
34 operated by the person, whichever the person most often operates,
35 for the purpose of complying with the provisions of P.L.1999, c.417
36 (C.39:4-50.16 et al.);

37 (3) if the refusal was in connection with a third or subsequent
38 offense under this section 【in which case the revocation shall be for
39 ten years】, to forfeit the right to operate a motor vehicle over the
40 highways of this State for a period of eight years following the
41 installation of an ignition interlock device in one motor vehicle
42 owned, leased, or principally operated by the person, whichever the
43 person most often operates, for the purpose of complying with the
44 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A conviction
45 or administrative determination of a violation of a law of a
46 substantially similar nature in another jurisdiction, regardless of
47 whether that jurisdiction is a signatory to the Interstate Driver

1 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),
2 shall constitute a prior conviction under this section.

3 The municipal court shall determine by a preponderance of the
4 evidence whether the arresting officer had probable cause to believe
5 that the person had been driving or was in actual physical control of
6 a motor vehicle on the public highways or quasi-public areas of this
7 State while the person was under the influence of intoxicating
8 liquor or a narcotic, hallucinogenic, or habit-producing drug or
9 marijuana; whether the person was placed under arrest, if
10 appropriate, and whether he refused to submit to the test upon
11 request of the officer; and if these elements of the violation are not
12 established, no conviction shall issue. In addition to any other
13 requirements provided by law, a person whose operator's license is
14 revoked for refusing to submit to a test shall be referred to an
15 Intoxicated Driver Resource Center established by subsection (f) of
16 R.S.39:4-50 and shall satisfy the same requirements of the center
17 for refusal to submit to a test as provided for in section 2 of
18 P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second,
19 third or subsequent offense under this section that must be satisfied
20 by a person convicted of a commensurate violation of this section,
21 or be subject to the same penalties as such a person for failure to do
22 so. For a first offense, the revocation may be concurrent with or
23 consecutive to any revocation imposed for a conviction under the
24 provisions of R.S.39:4-50 arising out of the same incident. For a
25 second or subsequent offense, the revocation shall be consecutive to
26 any revocation imposed for a conviction under the provisions of
27 R.S.39:4-50. In addition to issuing a revocation, **【except as**
28 **provided in subsection b. of this section,】** the municipal court shall
29 fine a person convicted under this section, a fine of not less than
30 \$300 or more than \$500 for a first offense; a fine of not less than
31 \$500 or more than \$1,000 for a second offense; and a fine of \$1,000
32 for a third or subsequent offense. **【The person also shall be**
33 **required to install an ignition interlock device pursuant to the**
34 **provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).】**

35 b. **【For a first offense, the fine imposed upon the convicted**
36 **person shall be not less than \$600 or more than \$1,000 and the**
37 **period of license suspension shall be not less than one year or more**
38 **than two years; for a second offense, a fine of not less than \$1,000**
39 **or more than \$2,000 and a license suspension for a period of four**
40 **years; and for a third or subsequent offense, a fine of \$2,000 and a**
41 **license suspension for a period of 20 years when a violation of this**
42 **section occurs while:**

43 (1) on any school property used for school purposes which is
44 owned by or leased to any elementary or secondary school or school
45 board, or within 1,000 feet of such school property;

1 (2) driving through a school crossing as defined in R.S.39:1-1 if
2 the municipality, by ordinance or resolution, has designated the
3 school crossing as such; or

4 (3) driving through a school crossing as defined in R.S.39:1-1
5 knowing that juveniles are present if the municipality has not
6 designated the school crossing as such by ordinance or resolution.

7 A map or true copy of a map depicting the location and
8 boundaries of the area on or within 1,000 feet of any property used
9 for school purposes which is owned by or leased to any elementary
10 or secondary school or school board produced pursuant to section 1
11 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
12 paragraph (1) of this subsection.

13 It shall not be relevant to the imposition of sentence pursuant to
14 paragraph (1) or (2) of this subsection that the defendant was
15 unaware that the prohibited conduct took place while on or within
16 1,000 feet of any school property or while driving through a school
17 crossing. Nor shall it be relevant to the imposition of sentence that
18 no juveniles were present on the school property or crossing zone at
19 the time of the offense or that the school was not in session.】

20 (Deleted by amendment, P.L. _____, c. _____) (pending before the
21 Legislature as this bill)

22 (cf: P.L.2009, c.201, s.5)

23

24 4. Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to
25 read as follows:

26 2. a. (1) Except as provided in paragraph (2) of this
27 subsection, (a) in sentencing a first offender under subparagraph (i)
28 of paragraph (1) of subsection (a) of R.S.39:4-50, whose blood
29 alcohol concentration was at least 0.08% but less than 0.10%, or
30 who was otherwise under the influence of intoxicating liquor, the
31 court [may] shall order, in addition to any other penalty imposed
32 by that section, the installation of an ignition interlock device in
33 [the] one motor vehicle owned, leased, or principally operated by
34 the offender [following the expiration of the period of license
35 suspension imposed under that section. In sentencing a first
36 offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
37 court shall order, in addition to any other penalty imposed by that
38 section, the installation of an ignition interlock device in the motor
39 vehicle principally operated by the offender during and following
40 the expiration of the period of license suspension imposed under
41 that section. The device], whichever the offender most often
42 operates, which shall remain installed for [not less than six months
43 or more than one year, commencing immediately upon the return of
44 the offender's driver's license after the required period of
45 suspension has been served] three months.

46 (b) In sentencing a first offender under subparagraph (ii) of
47 paragraph (1) of subsection (a) of R.S.39:4-50 whose blood alcohol

1 concentration was 0.10% or higher, but less than 0.15%, the court
2 shall order, in addition to any other penalty imposed, the
3 installation of an ignition interlock device in one motor vehicle
4 owned, leased, or principally operated by the offender, whichever
5 the offender most often operates, which shall remain installed for
6 not less than seven months or more than one year.

7 (2) If the first offender's blood alcohol concentration is 0.15%
8 or higher, or the offender violated section 2 of P.L.1981, c.512
9 (C.39:4-50.4a), the court shall order, in addition to any other
10 penalty imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512
11 (C.39:4-50.4a), the installation of an ignition interlock device in
12 **【the】** one motor vehicle owned, leased, or principally operated by
13 the offender, whichever the offender most often operates, during
14 and following the expiration of the period of license 【suspension】
15 forfeiture imposed under 【that section】 those sections. In addition
16 to installation during the period of license suspension, the device
17 shall remain installed for not less than **【six】** nine months or more
18 than **【one year】** 15 months, commencing immediately upon
19 installation of the device and the return of the offender's driver's
20 license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18)
21 after the required period of 【suspension】 forfeiture has been served.

22 b. In sentencing a second or subsequent offender under
23 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
24 court shall order, in addition to any other penalty imposed by that
25 section, the installation of an ignition interlock device in the motor
26 vehicle principally operated by the offender during and following
27 the expiration of the period of license **【suspension】** forfeiture
28 imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-
29 50.4a). In addition to installation during the period of license
30 **【suspension】** forfeiture, the device shall remain installed for not
31 less than **【one year】** two years or more than **【three】** four years,
32 commencing immediately upon installation of the device and the
33 return of the offender's driver's license pursuant to section 3 of
34 P.L.1999, c.417 (C.39:4-50.18) after the required period of
35 **【suspension】** forfeiture has been served.

36 c. The court shall require that, for the duration of its order, an
37 offender shall not drive **【no】** any vehicle other than one in which an
38 ignition interlock device has been installed pursuant to the order.

39 The offender shall provide to the court information identifying
40 the motor vehicle on which the ignition interlock is to be installed,
41 and any other information deemed relevant by the court, including,
42 but not limited to, the offender's complete name, address, date of
43 birth, eye color, and gender. An offender who does not own, lease,
44 or operate a motor vehicle shall attest to this to the court. A
45 violation of this provision shall constitute perjury pursuant to
46 N.J.S.2C:28-1. An offender immediately shall notify the court of

1 the purchase, lease, or access to operation of a motor vehicle and
2 install an ignition interlock device in the vehicle.

3 The driver's license of an offender who attests to not owning,
4 leasing, or operating a motor vehicle shall be forfeited for the
5 ignition interlock installation period required pursuant to
6 subsections a. and b. of this section.

7 d. As used in **[this act]** P.L.1999, c.417 (C.39:4-50.16 et al.),
8 "ignition interlock device" or "device" means a blood alcohol
9 equivalence measuring device which will prevent a motor vehicle
10 from starting if the operator's blood alcohol **[content]** concentration
11 exceeds a predetermined level when the operator blows into the
12 device.

13 e. The provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) and
14 any amendments and supplements thereto shall be applicable only
15 to violations of R.S.39:4-50 and section 2 of P.L.1981, c.512
16 (C.39:4-50.4a).

17 f. A person who does not possess a valid driver's license issued
18 by this State at the time of the imposition of a sentence pursuant to
19 this section shall be prohibited from obtaining a driver's license for
20 the duration of that sentence. Upon obtaining a driver's license, the
21 person shall be sentenced to a period of ignition interlock device
22 installation pursuant to the provisions of this section.

23 (cf: P.L.2009, c.201, s.2)

24

25 5. Section 3 of P.L.1999, c.417 (C.39:4-50.18) is amended to
26 read as follows:

27 3. a. The court shall notify the **[Director]** Chief Administrator
28 of the **[Division of]** New Jersey Motor **[Vehicles]** Vehicle
29 Commission when a person has been ordered to install an ignition
30 interlock device in a vehicle **[owned, leased or regularly operated**
31 **by the person]** pursuant to the provisions of P.L.1999, c.417
32 (C.39:4-50.16 et al.). The **[division]** commission shall require that
33 the device be installed before **[reinstatement]** restoration of the
34 person's driver's license that has been **[suspended]** forfeited
35 pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-
36 50.4a).

37 b. The **[division]** commission shall imprint a notation on the
38 driver's license stating that the person shall not operate a motor
39 vehicle unless it is equipped with an ignition interlock device and
40 shall enter this requirement in the person's driving record. The
41 expiration date of the device requirement shall not be imprinted on
42 the license.

43 c. Notwithstanding the provisions of section 2 of P.L.1999,
44 c.417 (C.39:4-50.17), an ignition interlock device shall be removed
45 on the date the person completes the installation period only if the
46 person submits to the chief administrator a certification from the
47 vendor that:

1 (1) during the final 30 days of the installation period there was
2 not more than one failure to take or pass a test with a blood alcohol
3 concentration of 0.08% or higher unless a re-test conducted within
4 five minutes of the initial test indicates a blood alcohol
5 concentration of less than 0.08%; and

6 (2) the person complied with all required maintenance, repair,
7 calibration, monitoring, and inspection requirements related to the
8 device.

9 d. If the vendor does not issue a certification to the person
10 because there were two or more violations of paragraph (1) of
11 subsection c. of this section, the vendor shall forward the violation
12 information to the chief administrator and the court. The court shall
13 decide whether to extend the period of ignition interlock device
14 installation for up to 90 days or issue the certification to the chief
15 administrator.

16 (cf: P.L.1999, c.417, s.3)

17
18 ¹6. (New section) The chief administrator semiannually shall
19 issue a summary report containing the following information
20 concerning offenders required to install an ignition interlock device
21 pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17):

22 a. the total number of offenders ordered to install an ignition
23 interlock categorized by the offender's number of convictions and
24 place of residence;

25 b. whether the offender qualifies for a reduced fee for monthly
26 rental of an ignition interlock device pursuant to section 6 of
27 P.L.2009, c.201 (C.39:4-50.17a) categorized by family income
28 exceeding 100 percent or 149 percent of the federal poverty level;
29 the percentage these offenders constitute of the total number of
30 offenders; and the number of these offenders that reside in each
31 county;

32 c. the average length of time an offender maintains installation
33 of the device categorized by the offender's number of convictions;
34 and

35 d. the percent of offenders who remove the ignition interlock
36 device because they are unable to afford continued installation.¹

37
38 ¹[6] 7¹. This act shall take effect on the first day of the fourth
39 month after enactment and shall apply to any offense occurring on
40 or after that date¹; the act shall expire on the first day of the fifth
41 year next following the effective date¹. The Chief Administrator of
42 the New Jersey Motor Vehicle Commission may take any
43 anticipatory administrative action in advance of that date as shall be
44 necessary to implement the provisions of this act.