

ASSEMBLY, No. 437

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Assemblyman JOHN CATALANO

District 10 (Ocean)

SYNOPSIS

Requires installation of ignition interlock device if sentence for DWI is stayed pending appeal.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/3/2020)

1 **AN ACT** concerning ignition interlock devices and amending
2 various parts of the statutory law.

3

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

6

7 1. R.S.39:4-50 is amended to read as follows:

8 39:4-50. (a) Except as provided in subsection (g) of this
9 section, a person who operates a motor vehicle while under the
10 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
11 producing drug, or operates a motor vehicle with a blood alcohol
12 concentration of 0.08% or more by weight of alcohol in the
13 defendant's blood or permits another person who is under the
14 influence of intoxicating liquor, narcotic, hallucinogenic or habit-
15 producing drug to operate a motor vehicle owned by him or in his
16 custody or control or permits another to operate a motor vehicle
17 with a blood alcohol concentration of 0.08% or more by weight of
18 alcohol in the defendant's blood shall be subject:

19 (1) For the first offense:

20 (i) if the person's blood alcohol concentration is 0.08% or
21 higher but less than 0.10%, or the person operates a motor vehicle
22 while under the influence of intoxicating liquor, or the person
23 permits another person who is under the influence of intoxicating
24 liquor to operate a motor vehicle owned by him or in his custody or
25 control or permits another person with a blood alcohol
26 concentration of 0.08% or higher but less than 0.10% to operate a
27 motor vehicle, to a fine of not less than \$250 nor more than \$400
28 and a period of detainment of not less than 12 hours nor more than
29 48 hours spent during two consecutive days of not less than six
30 hours each day and served as prescribed by the program
31 requirements of the Intoxicated Driver Resource Centers established
32 under subsection (f) of this section and, in the discretion of the
33 court, a term of imprisonment of not more than 30 days and shall
34 forthwith forfeit his right to operate a motor vehicle over the
35 highways of this State for a period of three months;

36 (ii) if the person's blood alcohol concentration is 0.10% or
37 higher, or the person operates a motor vehicle while under the
38 influence of narcotic, hallucinogenic or habit-producing drug, or the
39 person permits another person who is under the influence of
40 narcotic, hallucinogenic or habit-producing drug to operate a motor
41 vehicle owned by him or in his custody or control, or permits
42 another person with a blood alcohol concentration of 0.10% or more
43 to operate a motor vehicle, to a fine of not less than \$300 nor more
44 than \$500 and a period of detainment of not less than 12 hours nor
45 more than 48 hours spent during two consecutive days of not less
46 than six hours each day and served as prescribed by the program
47 requirements of the Intoxicated Driver Resource Centers established

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.

1 under subsection (f) of this section and, in the discretion of the
2 court, a term of imprisonment of not more than 30 days and shall
3 forthwith forfeit his right to operate a motor vehicle over the
4 highways of this State for a period of not less than seven months
5 nor more than one year;

6 (iii) For a first offense, a person also shall be subject to the
7 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

8 (2) For a second violation, a person shall be subject to a fine of
9 not less than \$500 nor more than \$1,000, and shall be ordered by
10 the court to perform community service for a period of 30 days,
11 which shall be of such form and on such terms as the court shall
12 deem appropriate under the circumstances, and shall be sentenced to
13 imprisonment for a term of not less than 48 consecutive hours,
14 which shall not be suspended or served on probation, nor more than
15 90 days, and shall forfeit his right to operate a motor vehicle over
16 the highways of this State for a period of two years upon
17 conviction, and, after the expiration of said period, he may make
18 application to the Chief Administrator of the New Jersey Motor
19 Vehicle Commission for a license to operate a motor vehicle, which
20 application may be granted at the discretion of the chief
21 administrator, consistent with subsection (b) of this section. For a
22 second violation, a person also shall be required to install an
23 ignition interlock device under the provisions of P.L.1999, c.417
24 (C.39:4-50.16 et al.).

25 (3) For a third or subsequent violation, a person shall be subject
26 to a fine of \$1,000, and shall be sentenced to imprisonment for a
27 term of not less than 180 days in a county jail or workhouse, except
28 that the court may lower such term for each day, not exceeding 90
29 days, served participating in a drug or alcohol inpatient
30 rehabilitation program approved by the Intoxicated Driver Resource
31 Center and shall thereafter forfeit his right to operate a motor
32 vehicle over the highways of this State for 10 years. For a third or
33 subsequent violation, a person also shall be required to install an
34 ignition interlock device under the provisions of P.L.1999, c.417
35 (C.39:4-50.16 et al.).

36 As used in this section, the phrase "narcotic, hallucinogenic or
37 habit-producing drug" includes an inhalant or other substance
38 containing a chemical capable of releasing any toxic vapors or
39 fumes for the purpose of inducing a condition of intoxication, such
40 as any glue, cement or any other substance containing one or more
41 of the following chemical compounds: acetone and acetate, amyl
42 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl
43 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,
44 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or
45 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous
46 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
47 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or
48 any other chemical substance capable of causing a condition of

1 intoxication, inebriation, excitement, stupefaction or the dulling of
2 the brain or nervous system as a result of the inhalation of the
3 fumes or vapors of such chemical substance.

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

10 A conviction of a violation of a law of a substantially similar
11 nature in another jurisdiction, regardless of whether that jurisdiction
12 is a signatory to the Interstate Driver License Compact pursuant to
13 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior
14 conviction under this subsection unless the defendant can
15 demonstrate by clear and convincing evidence that the conviction in
16 the other jurisdiction was based exclusively upon a violation of a
17 proscribed blood alcohol concentration of less than 0.08%.

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

39 A person who has been convicted of a previous violation of this
40 section need not be charged as a second or subsequent offender in
41 the complaint made against him in order to render him liable to the
42 punishment imposed by this section on a second or subsequent
43 offender, but if the second offense occurs more than 10 years after
44 the first offense, the court shall treat the second conviction as a first
45 offense for sentencing purposes and if a third offense occurs more
46 than 10 years after the second offense, the court shall treat the third
47 conviction as a second offense for sentencing purposes.

1 (b) A person convicted under this section must satisfy the
2 screening, evaluation, referral, program and fee requirements of the
3 Division of Mental Health and Addiction Services' Intoxicated
4 Driving Program Unit, and of the Intoxicated Driver Resource
5 Centers and a program of alcohol and drug education and highway
6 safety, as prescribed by the chief administrator. The sentencing
7 court shall inform the person convicted that failure to satisfy such
8 requirements shall result in a mandatory two-day term of
9 imprisonment in a county jail and a driver license revocation or
10 suspension and continuation of revocation or suspension until such
11 requirements are satisfied, unless stayed by court order in
12 accordance with the Rules Governing the Courts of the State of
13 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall
14 forward to the Division of Mental Health and Addiction Services'
15 Intoxicated Driving Program Unit a copy of a person's conviction
16 record. A fee of \$100 shall be payable to the Alcohol Education,
17 Rehabilitation and Enforcement Fund established pursuant to
18 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
19 Intoxicated Driving Program Unit.

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

46 (d) The chief administrator shall promulgate rules and
47 regulations pursuant to the "Administrative Procedure Act,"

1 P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program
2 of alcohol education and highway safety, as prescribed by this act.

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

8 (f) The counties, in cooperation with the Division of Mental
9 Health and Addiction Services and the commission, but subject to
10 the approval of the Division of Mental Health and Addiction
11 Services, shall designate and establish on a county or regional basis
12 Intoxicated Driver Resource Centers. These centers shall have the
13 capability of serving as community treatment referral centers and as
14 court monitors of a person's compliance with the ordered treatment,
15 service alternative or community service. All centers established
16 pursuant to this subsection shall be administered by a counselor
17 certified by the Alcohol and Drug Counselor Certification Board of
18 New Jersey or other professional with a minimum of five years'
19 experience in the treatment of alcoholism. All centers shall be
20 required to develop individualized treatment plans for all persons
21 attending the centers; provided that the duration of any ordered
22 treatment or referral shall not exceed one year. It shall be the
23 center's responsibility to establish networks with the community
24 alcohol and drug education, treatment and rehabilitation resources
25 and to receive monthly reports from the referral agencies regarding
26 a person's participation and compliance with the program. Nothing
27 in this subsection shall bar these centers from developing their own
28 education and treatment programs; provided that they are approved
29 by the Division of Mental Health and Addiction Services.

30 Upon a person's failure to report to the initial screening or any
31 subsequent ordered referral, the Intoxicated Driver Resource Center
32 shall promptly notify the sentencing court of the person's failure to
33 comply.

34 Required detention periods at the Intoxicated Driver Resource
35 Centers shall be determined according to the individual treatment
36 classification assigned by the Intoxicated Driving Program Unit.
37 Upon attendance at an Intoxicated Driver Resource Center, a person
38 shall be required to pay a per diem fee of \$75 for the first offender
39 program or a per diem fee of \$100 for the second offender program,
40 as appropriate. Any increases in the per diem fees after the first full
41 year shall be determined pursuant to rules and regulations adopted
42 by the Commissioner of Health in consultation with the Governor's
43 Council on Alcoholism and Drug Abuse pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.).

46 The centers shall conduct a program of alcohol and drug
47 education and highway safety, as prescribed by the chief
48 administrator.

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

5 (g) When a violation of this section occurs while:

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

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

12 (3) driving through a school crossing as defined in R.S.39:1-1
13 knowing that juveniles are present if the municipality has not
14 designated the school crossing as such by ordinance or resolution,
15 the convicted person shall: for a first offense, be fined not less than
16 \$500 or more than \$800, be imprisoned for not more than 60 days
17 and have his license to operate a motor vehicle suspended for a
18 period of not less than one year or more than two years; for a
19 second offense, be fined not less than \$1,000 or more than \$2,000,
20 perform community service for a period of 60 days, be imprisoned
21 for not less than 96 consecutive hours, which shall not be suspended
22 or served on probation, nor more than 180 days, except that the
23 court may lower such term for each day, not exceeding 90 days,
24 served performing community service in such form and on such
25 terms as the court shall deem appropriate under the circumstances
26 and have his license to operate a motor vehicle suspended for a
27 period of four years; and, for a third offense, be fined \$2,000,
28 imprisoned for 180 days in a county jail or workhouse, except that
29 the court may lower such term for each day, not exceeding 90 days,
30 served participating in a drug or alcohol inpatient rehabilitation
31 program approved by the Intoxicated Driver Resource Center, and
32 have his license to operate a motor vehicle suspended for a period
33 of 20 years; the period of license suspension shall commence upon
34 the completion of any prison sentence imposed upon that person.

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

41 It shall not be relevant to the imposition of sentence pursuant to
42 paragraph (1) or (2) of this subsection that the defendant was
43 unaware that the prohibited conduct took place while on or within
44 1,000 feet of any school property or while driving through a school
45 crossing. Nor shall it be relevant to the imposition of sentence that
46 no juveniles were present on the school property or crossing zone at
47 the time of the offense or that the school was not in session.

1 (h) A court also may order a person convicted pursuant to
2 subsection (a) of this section, to participate in a supervised
3 visitation program as either a condition of probation or a form of
4 community service, giving preference to those who were under the
5 age of 21 at the time of the offense. Prior to ordering a person to
6 participate in such a program, the court may consult with any
7 person who may provide useful information on the defendant's
8 physical, emotional and mental suitability for the visit to ensure that
9 it will not cause any injury to the defendant. The court also may
10 order that the defendant participate in a counseling session under
11 the supervision of the Intoxicated Driving Program Unit prior to
12 participating in the supervised visitation program. The supervised
13 visitation program shall be at one or more of the following facilities
14 which have agreed to participate in the program under the
15 supervision of the facility's personnel and the probation department:

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

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

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

26 As used in this section, "appropriate victim" means a victim
27 whose condition is determined by the facility's supervisory
28 personnel and the probation officer to be appropriate for
29 demonstrating the results of accidents involving drunk drivers
30 without being unnecessarily gruesome or traumatic to the
31 defendant.

32 If at any time before or during a visitation the facility's
33 supervisory personnel and the probation officer determine that the
34 visitation may be or is traumatic or otherwise inappropriate for that
35 defendant, the visitation shall be terminated without prejudice to the
36 defendant. The program may include a personal conference after
37 the visitation, which may include the sentencing judge or the judge
38 who coordinates the program for the court, the defendant,
39 defendant's counsel, and, if available, the defendant's parents to
40 discuss the visitation and its effect on the defendant's future
41 conduct. If a personal conference is not practicable because of the
42 defendant's absence from the jurisdiction, conflicting time
43 schedules, or any other reason, the court shall require the defendant
44 to submit a written report concerning the visitation experience and
45 its impact on the defendant. The county, a court, any facility visited
46 pursuant to the program, any agents, employees, or independent
47 contractors of the court, county, or facility visited pursuant to the
48 program, and any person supervising a defendant during the

1 visitation, are not liable for any civil damages resulting from injury
2 to the defendant, or for civil damages associated with the visitation
3 which are caused by the defendant, except for willful or grossly
4 negligent acts intended to, or reasonably expected to result in, that
5 injury or damage.

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

8 (i) In addition to any other fine, fee, or other charge imposed
9 pursuant to law, the court shall assess a person convicted of a
10 violation of the provisions of this section a surcharge of \$125, of
11 which amount \$50 shall be payable to the municipality in which the
12 conviction was obtained, \$50 shall be payable to the Treasurer of
13 the State of New Jersey for deposit into the General Fund, and \$25
14 which shall be payable as follows: in a matter where the summons
15 was issued by a municipality's law enforcement agency, to that
16 municipality to be used for the cost of equipping police vehicles
17 with mobile video recording systems pursuant to the provisions of
18 section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the
19 summons was issued by a county's law enforcement agency, to that
20 county; and in a matter where the summons was issued by a State
21 law enforcement agency, to the General Fund.

22 (j) A court shall not grant a stay of a sentence imposed pursuant
23 to this section pending appeal unless the court requires the person
24 whose sentence is stayed to install an ignition interlock device
25 pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).
26 (cf: P.L.2014, c.54, s.2)

27

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

30 2. a. Except as provided in subsection b. of this section, the
31 municipal court shall revoke the right to operate a motor vehicle of
32 any operator who, after being arrested for a violation of R.S.39:4-50
33 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to
34 submit to a test provided for in section 2 of P.L.1966, c.142
35 (C.39:4-50.2) when requested to do so, for not less than seven
36 months or more than one year unless the refusal was in connection
37 with a second offense under this section, in which case the
38 revocation period shall be for two years or unless the refusal was in
39 connection with a third or subsequent offense under this section in
40 which case the revocation shall be for ten years. A conviction or
41 administrative determination of a violation of a law of a
42 substantially similar nature in another jurisdiction, regardless of
43 whether that jurisdiction is a signatory to the Interstate Driver
44 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),
45 shall constitute a prior conviction under this section.

46 The municipal court shall determine by a preponderance of the
47 evidence whether the arresting officer had probable cause to believe
48 that the person had been driving or was in actual physical control of

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

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

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

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

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

47 A map or true copy of a map depicting the location and
48 boundaries of the area on or within 1,000 feet of any property used

1 for school purposes which is owned by or leased to any elementary
2 or secondary school or school board produced pursuant to section 1
3 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
4 paragraph (1) of this subsection.

5 It shall not be relevant to the imposition of sentence pursuant to
6 paragraph (1) or (2) of this subsection that the defendant was
7 unaware that the prohibited conduct took place while on or within
8 1,000 feet of any school property or while driving through a school
9 crossing. Nor shall it be relevant to the imposition of sentence that
10 no juveniles were present on the school property or crossing zone at
11 the time of the offense or that the school was not in session.

12 c. A court shall not grant a stay of a sentence imposed pursuant
13 to this section pending appeal unless the court requires the person
14 whose sentence is stayed to install an ignition interlock device
15 pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).
16 (cf: P.L.2009, c.201, s.5)
17

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

20 2. a. (1) Except as provided in paragraph (2) of this
21 subsection, in sentencing a first offender under R.S.39:4-50, the
22 court may order, in addition to any other penalty imposed by that
23 section, the installation of an ignition interlock device in the motor
24 vehicle principally operated by the offender following the
25 expiration of the period of license suspension imposed under that
26 section. In sentencing a first offender under section 2 of P.L.1981,
27 c.512 (C.39:4-50.4a), the court shall order, in addition to any other
28 penalty imposed by that section, the installation of an ignition
29 interlock device in the motor vehicle principally operated by the
30 offender during and following the expiration of the period of license
31 suspension imposed under that section. The device shall remain
32 installed for not less than six months or more than one year,
33 commencing immediately upon the return of the offender's driver's
34 license after the required period of suspension has been served.

35 (2) If the first offender's blood alcohol concentration is 0.15%
36 or higher, the court shall order, in addition to any other penalty
37 imposed under R.S.39:4-50, the installation of an ignition interlock
38 device in the motor vehicle principally operated by the offender
39 during and following the expiration of the period of license
40 suspension imposed under that section. In addition to installation
41 during the period of license suspension, the device shall remain
42 installed for not less than six months or more than one year,
43 commencing immediately upon the return of the offender's driver's
44 license after the required period of suspension has been served.

45 b. In sentencing a second or subsequent offender under
46 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
47 court shall order, in addition to any other penalty imposed by that
48 section, the installation of an ignition interlock device in the motor

1 vehicle principally operated by the offender during and following
2 the expiration of the period of license suspension imposed under
3 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). In
4 addition to installation during the period of license suspension, the
5 device shall remain installed for not less than one year or more than
6 three years, commencing immediately upon the return of the
7 offender's driver's license after the required period of suspension
8 has been served

9 c. The court shall require that, for the duration of its order, an
10 offender shall drive no vehicle other than one in which an interlock
11 device has been installed pursuant to the order.

12 d. As used in this act, "ignition interlock device" or "device"
13 means a blood alcohol equivalence measuring device which will
14 prevent a motor vehicle from starting if the operator's blood alcohol
15 content exceeds a predetermined level when the operator blows into
16 the device.

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

21 f. A court shall not grant a stay of a sentence imposed pursuant
22 to the provisions of R.S.39:4-50 or section 2 of P.L.1981, c.512
23 (C.39:4-50.4a) pending appeal unless the court orders the
24 installation of an ignition interlock device in the motor vehicle
25 principally operated by the person whose sentence is stayed. The
26 device shall remain installed in the motor vehicle until the appeal is
27 concluded.

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

29
30 4. This act shall take effect immediately.

31 32 STATEMENT

33
34 This bill requires the installation of an ignition interlock device
35 if a sentence for driving while intoxicated (DWI) or refusal to take a
36 breathalyzer test is stayed pending appeal.

37 Specifically, under the provisions of this bill, a court is not to
38 grant a stay of a sentence imposed for DWI or refusal to take a
39 breathalyzer test pending appeal unless the court requires the person
40 whose sentence is stayed to install an ignition interlock device.

41 At present, most persons who are convicted of DWI are required
42 to install an ignition interlock device during the period of driver's
43 license suspension and for a specific period after restoration of the
44 license.

45 Under the bill, the court is to order the installation of the ignition
46 interlock device in the motor vehicle principally operated by the
47 person. In addition, the device is to remain installed in the motor
48 vehicle until the appeal is concluded.