

ASSEMBLY, No. 763

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman BRIAN E. RUMPF

District 9 (Atlantic, Burlington and Ocean)

Assemblywoman DIANNE C. GOVE

District 9 (Atlantic, Burlington and Ocean)

Co-Sponsored by:

Assemblyman S.Kean

SYNOPSIS

Extends penalties for driving under the influence to include any substance that impairs driving ability; deems driver's consent to non-invasive drug tests.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the operation of a motor vehicle under the
2 influence of drugs or alcohol and amending R.S.39:4-50,
3 P.L.1966, c.142, and P.L.1981, c.512.

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

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

9 39:4-50. (a) Except as provided in subsection (g) of this section,
10 a person who operates a motor vehicle while under the influence of
11 intoxicating liquor, narcotic, hallucinogenic or habit-producing
12 drug, or any other substance or combination of substances which
13 has impaired the person's ability to operate a motor vehicle, or
14 operates a motor vehicle with a blood alcohol concentration of
15 0.08% or more by weight of alcohol in the defendant's blood or
16 permits another person who is under the influence of intoxicating
17 liquor, narcotic, hallucinogenic or habit-producing drug , or any
18 other substance or combination of substances which has impaired
19 the person's ability to operate a motor vehicle owned by him or in
20 his custody or control or permits another to operate a motor vehicle
21 with a blood alcohol concentration of 0.08% or more by weight of
22 alcohol in the 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 shall
38 forthwith forfeit his right to operate a motor vehicle over the
39 highways of this State for a period of three months;

40 (ii) if the person's blood alcohol concentration is 0.10% or
41 higher, or the person operates a motor vehicle while under the
42 influence of narcotic, hallucinogenic or habit-producing drug , or
43 any other substance or combination of substances which has
44 impaired the person's ability to operate a motor vehicle, or the
45 person permits another person who is under the influence of

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 narcotic, hallucinogenic or habit-producing drug , or any other
2 substance or combination of substances which has impaired the
3 person's ability to operate a motor vehicle owned by him or in his
4 custody or control, or permits another person with a blood alcohol
5 concentration of 0.10% or more to operate a motor vehicle, to a fine
6 of not less than \$300 nor more than \$500 and a period of
7 detainment of not less than 12 hours nor more than 48 hours spent
8 during two consecutive days of not less than six hours each day and
9 served as prescribed by the program requirements of the Intoxicated
10 Driver Resource Centers established under subsection (f) of this
11 section and, in the discretion of the court, a term of imprisonment of
12 not more than 30 days and shall forthwith forfeit his right to operate
13 a motor vehicle over the highways of this State for a period of not
14 less than seven months nor more than one year;

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

17 (2) For a second violation, a person shall be subject to a fine of
18 not less than \$500.00 nor more than \$1,000.00, and shall be ordered
19 by the court to perform community service for a period of 30 days,
20 which shall be of such form and on such terms as the court shall
21 deem appropriate under the circumstances, and shall be sentenced to
22 imprisonment for a term of not less than 48 consecutive hours,
23 which shall not be suspended or served on probation, nor more than
24 90 days, and shall forfeit his right to operate a motor vehicle over
25 the highways of this State for a period of two years upon
26 conviction, and, after the expiration of said period, he may make
27 application to the Chief Administrator of the New Jersey Motor
28 Vehicle Commission for a license to operate a motor vehicle, which
29 application may be granted at the discretion of the chief
30 administrator, consistent with subsection (b) of this section. For a
31 second violation, a person also shall be required to install an
32 ignition interlock device under the provisions of P.L.1999,
33 c.417 (C.39:4-50.16 et al.) or shall have his registration certificate
34 and registration plates revoked for two years under the provisions of
35 section 2 of P.L.1995, c.286 (C.39:3-40.1).

36 (3) For a third or subsequent violation, a person shall be subject
37 to a fine of \$1,000.00, and shall be sentenced to imprisonment for a
38 term of not less than 180 days in a county jail or workhouse, except
39 that the court may lower such term for each day, not exceeding 90
40 days, served participating in a drug or alcohol inpatient
41 rehabilitation program approved by the Intoxicated Driver Resource
42 Center and shall thereafter forfeit his right to operate a motor
43 vehicle over the highways of this State for 10 years. For a third or
44 subsequent violation, a person also shall be required to install an
45 ignition interlock device under the provisions of P.L.1999,
46 c.417 (C.39:4-50.16 et al.) or shall have his registration certificate
47 and registration plates revoked for 10 years under the provisions of
48 section 2 of P.L.1995, c.286 (C.39:3-40.1).

1 As used in this section, the phrase "narcotic, hallucinogenic or
2 habit-producing drug" includes an inhalant or other substance
3 containing a chemical capable of releasing any toxic vapors or
4 fumes for the purpose of inducing a condition of intoxication, such
5 as any glue, cement or any other substance containing one or more
6 of the following chemical compounds: acetone and acetate, amyl
7 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl
8 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,
9 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or
10 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous
11 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
12 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or
13 any other chemical substance capable of causing a condition of
14 intoxication, inebriation, excitement, stupefaction or the dulling of
15 the brain or nervous system as a result of the inhalation of the
16 fumes or vapors of such chemical substance.

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

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

31 If the driving privilege of any person is under revocation or
32 suspension for a violation of any provision of this Title or Title 2C
33 of the New Jersey Statutes at the time of any conviction for a
34 violation of this section, the revocation or suspension period
35 imposed shall commence as of the date of termination of the
36 existing revocation or suspension period. In the case of any person
37 who at the time of the imposition of sentence is less than 17 years
38 of age, the forfeiture, suspension or revocation of the driving
39 privilege imposed by the court under this section shall commence
40 immediately, run through the offender's seventeenth birthday and
41 continue from that date for the period set by the court pursuant to
42 paragraphs (1) through (3) of this subsection. A court that imposes
43 a term of imprisonment for a first or second offense under this
44 section may sentence the person so convicted to the county jail, to
45 the workhouse of the county wherein the offense was committed, to
46 an inpatient rehabilitation program or to an Intoxicated Driver
47 Resource Center or other facility approved by the chief of the
48 Intoxicated Driving Program Unit in the Department of Health and

1 Senior Services. For a third or subsequent offense a person shall
2 not serve a term of imprisonment at an Intoxicated Driver Resource
3 Center as provided in subsection (f).

4 A person who has been convicted of a previous violation of this
5 section need not be charged as a second or subsequent offender in
6 the complaint made against him in order to render him liable to the
7 punishment imposed by this section on a second or subsequent
8 offender, but if the second offense occurs more than 10 years after
9 the first offense, the court shall treat the second conviction as a first
10 offense for sentencing purposes and if a third offense occurs more
11 than 10 years after the second offense, the court shall treat the third
12 conviction as a second offense for sentencing purposes.

13 (b) A person convicted under this section must satisfy the
14 screening, evaluation, referral, program and fee requirements of the
15 Division of Alcoholism and Drug Abuse's Intoxicated Driving
16 Program Unit, and of the Intoxicated Driver Resource Centers and a
17 program of alcohol and drug education and highway safety, as
18 prescribed by the chief administrator. The sentencing court shall
19 inform the person convicted that failure to satisfy such requirements
20 shall result in a mandatory two-day term of imprisonment in a
21 county jail and a driver license revocation or suspension and
22 continuation of revocation or suspension until such requirements
23 are satisfied, unless stayed by court order in accordance with the
24 Rules Governing the Courts of the State of New Jersey, or
25 R.S.39:5-22. Upon sentencing, the court shall forward to the
26 Division of Alcoholism and Drug Abuse's Intoxicated Driving
27 Program Unit a copy of a person's conviction record. A fee of
28 \$100.00 shall be payable to the Alcohol Education, Rehabilitation
29 and Enforcement Fund established pursuant to section 3 of
30 P.L.1983, c.531 (C.26:2B-32) to support the Intoxicated Driving
31 Program Unit.

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

1 however, revoke the nonresident's driving privilege to operate a
2 motor vehicle in this State, in accordance with this section. Upon
3 conviction of a violation of this section, the court shall notify the
4 person convicted, orally and in writing, of the penalties for a
5 second, third or subsequent violation of this section. A person shall
6 be required to acknowledge receipt of that written notice in writing.
7 Failure to receive a written notice or failure to acknowledge in
8 writing the receipt of a written notice shall not be a defense to a
9 subsequent charge of a violation of this section.

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

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

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

41 Upon a person's failure to report to the initial screening or any
42 subsequent ordered referral, the Intoxicated Driver Resource Center
43 shall promptly notify the sentencing court of the person's failure to
44 comply.

45 Required detention periods at the Intoxicated Driver Resource
46 Centers shall be determined according to the individual treatment
47 classification assigned by the Intoxicated Driving Program Unit.
48 Upon attendance at an Intoxicated Driver Resource Center, a person

1 shall be required to pay a per diem fee of \$75.00 for the first
2 offender program or a per diem fee of \$100.00 for the second
3 offender program, as appropriate. Any increases in the per diem
4 fees after the first full year shall be determined pursuant to rules
5 and regulations adopted by the Commissioner of Health and Senior
6 Services in consultation with the Governor's Council on Alcoholism
7 and Drug Abuse pursuant to the "Administrative Procedure Act,"
8 P.L.1968, c.410 (C.52:14B-1 et seq.).

9 The centers shall conduct a program of alcohol and drug
10 education and highway safety, as prescribed by the chief
11 administrator.

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

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

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

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

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

46 A map or true copy of a map depicting the location and
47 boundaries of the area on or within 1,000 feet of any property used
48 for school purposes which is owned by or leased to any elementary

1 or secondary school or school board produced pursuant to section 1
2 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
3 paragraph (1) of this subsection.

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

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

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

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

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

36 As used in this section, "appropriate victim" means a victim
37 whose condition is determined by the facility's supervisory
38 personnel and the probation officer to be appropriate for
39 demonstrating the results of accidents involving drunk drivers
40 without being unnecessarily gruesome or traumatic to the
41 defendant.

42 If at any time before or during a visitation the facility's
43 supervisory personnel and the probation officer determine that the
44 visitation may be or is traumatic or otherwise inappropriate for that
45 defendant, the visitation shall be terminated without prejudice to the
46 defendant. The program may include a personal conference after
47 the visitation, which may include the sentencing judge or the judge
48 who coordinates the program for the court, the defendant,

1 defendant's counsel, and, if available, the defendant's parents to
2 discuss the visitation and its effect on the defendant's future
3 conduct. If a personal conference is not practicable because of the
4 defendant's absence from the jurisdiction, conflicting time
5 schedules, or any other reason, the court shall require the defendant
6 to submit a written report concerning the visitation experience and
7 its impact on the defendant. The county, a court, any facility visited
8 pursuant to the program, any agents, employees, or independent
9 contractors of the court, county, or facility visited pursuant to the
10 program, and any person supervising a defendant during the
11 visitation, are not liable for any civil damages resulting from injury
12 to the defendant, or for civil damages associated with the visitation
13 which are caused by the defendant, except for willful or grossly
14 negligent acts intended to, or reasonably expected to result in, that
15 injury or damage.

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

18 (i) In addition to any other fine, fee, or other charge imposed
19 pursuant to law, the court shall assess a person convicted of a
20 violation of the provisions of this section a surcharge of \$100, of
21 which amount \$50 shall be payable to the municipality in which the
22 conviction was obtained and \$50 shall be payable to the Treasurer
23 of the State of New Jersey for deposit into the General Fund.
24 (cf: P.L.2004, c.8, s.2)
25

26 2. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to
27 read as follows:

28 2. (a) Any person who operates a motor vehicle on any public
29 road, street or highway or quasi-public area in this State shall be
30 deemed to have given his consent to the taking of samples of his
31 breath for the purpose of making chemical tests to determine the
32 content of alcohol in his blood , and to submitting to evaluations by
33 a certified drug recognition expert upon the request of a law
34 enforcement officer to determine whether the person is under the
35 influence of any drug or other substance or combination of
36 substances which can impair the person's ability to operate a motor
37 vehicle; provided, however, that the taking of samples [is] and
38 conducting of evaluations are made in accordance with the
39 provisions of this act and at the request of a police officer who has
40 reasonable grounds to believe that such person has been operating a
41 motor vehicle in violation of the provisions of R.S. 39:4-50.

42 (b) A record of the taking of any such sample or conducting of
43 such evaluations, disclosing the date and time thereof, as well as
44 the result of any chemical test or evaluation, shall be made and a
45 copy thereof, upon his request, shall be furnished or made available
46 to the person so tested.

47 (c) In addition to the samples taken and tests and evaluations
48 made at the direction of a police officer hereunder, the person tested

1 shall be permitted to have such samples taken and chemical tests of
2 his breath, urine or blood , and other evaluations to determine drug
3 impairment, made by a person or physician of his own selection.

4 (d) The police officer shall inform the person tested of his rights
5 under subsections (b) and (c) of this section.

6 (e) No chemical test or evaluation for drug impairment, as
7 provided in this section, or specimen necessary thereto, may be
8 made or taken forcibly and against physical resistance thereto by
9 the defendant. The police officer shall, however, inform the person
10 arrested of the consequences of refusing to submit to such test or
11 evaluation in accordance with section 2 of this amendatory and
12 supplementary act. A standard statement, prepared by the director,
13 shall be read by the police officer to the person under arrest.

14 (f) As used in this act, a certified drug recognition expert is a
15 person who is specially trained to conduct examinations of
16 suspected drug impaired drivers.

17 (cf: P.L.1981, c.512, s.1)

18
19 3. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to
20 read as follow:

21 2. a. Except as provided in subsection b. of this section, the
22 municipal court shall revoke the right to operate a motor vehicle of
23 any operator who, after being arrested for a violation of R.S.39:4-
24 50, shall refuse to submit to a test or evaluation provided for in
25 section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so,
26 for not less than seven months or more than one year unless the
27 refusal was in connection with a second offense under this section,
28 in which case the revocation period shall be for two years or unless
29 the refusal was in connection with a third or subsequent offense
30 under this section in which case the revocation shall be for ten
31 years. A conviction or administrative determination of a violation
32 of a law of a substantially similar nature in another jurisdiction,
33 regardless of whether that jurisdiction is a signatory to the Interstate
34 Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et
35 seq.), shall constitute a prior conviction under this section.

36 The municipal court shall determine by a preponderance of the
37 evidence whether the arresting officer had probable cause to believe
38 that the person had been driving or was in actual physical control of
39 a motor vehicle on the public highways or quasi-public areas of this
40 State while the person was under the influence of intoxicating
41 liquor or a narcotic, hallucinogenic, or habit-producing drug **[or]** ,
42 marijuana ,or any other substance or combination of substances,
43 which impaired the person's ability to operate a motor vehicle;
44 whether the person was placed under arrest, if appropriate, and
45 whether he refused to submit to the test or evaluation upon request
46 of the officer; and if these elements of the violation are not
47 established, no conviction shall issue. In addition to any other
48 requirements provided by law, a person whose operator's license is

1 revoked for refusing to submit to a test or evaluation shall be
2 referred to an Intoxicated Driver Resource Center established by
3 subsection (f.) of R.S.39:4-50 and shall satisfy the same
4 requirements of the center for refusal to submit to a test as provided
5 for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with
6 a first, second, third or subsequent offense under this section that
7 must be satisfied by a person convicted of a commensurate violation
8 of this section, or be subject to the same penalties as such a person
9 for failure to do so. For a first offense, the revocation may be
10 concurrent with or consecutive to any revocation imposed for a
11 conviction under the provisions of R.S.39:4-50 arising out of the
12 same incident. For a second or subsequent offense, the revocation
13 shall be consecutive to any revocation imposed for a conviction
14 under the provisions of R.S.39:4-50. In addition to issuing a
15 revocation, except as provided in subsection b. of this section, the
16 municipal court shall fine a person convicted under this section, a
17 fine of not less than \$300 or more than \$500 for a first offense; a
18 fine of not less than \$500 or more than \$1,000 for a second offense;
19 and a fine of \$1,000 for a third or subsequent offense.

20 b. For a first offense, the fine imposed upon the convicted
21 person shall be not less than \$600 or more than \$1,000 and the
22 period of license suspension shall be not less than one year or more
23 than two years; for a second offense, a fine of not less than \$1,000
24 or more than \$2,000 and a license suspension for a period of four
25 years; and for a third or subsequent offense, a fine of \$2,000 and a
26 license suspension for a period of 20 years when a violation of this
27 section occurs while:

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

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

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

37 A map or true copy of a map depicting the location and
38 boundaries of the area on or within 1,000 feet of any property used
39 for school purposes which is owned by or leased to any elementary
40 or secondary school or school board produced pursuant to section 1
41 of P.L.1997, c.101 (C.2C:35-7) may be used in a prosecution under
42 paragraph (1) of this subsection.

43 It shall not be relevant to the imposition of sentence pursuant to
44 paragraph (1) or (2) of this subsection that the defendant was
45 unaware that the prohibited conduct took place while on or within
46 1,000 feet of any school property or while driving through a school
47 crossing. Nor shall it be relevant to the imposition of sentence that

1 no juveniles were present on the school property or crossing zone at
2 the time of the offense or that the school was not in session.
3 (cf: P.L.2004, c.8, s.1)
4

5 4. This act shall take effect on the first day of the sixth month
6 after enactment.
7
8

9 STATEMENT
10

11 This bill amends New Jersey's drunk driving statute, R.S.39:4-
12 50, to prohibit driving under the influence of any substance or
13 combinations of substances which may impair a person's ability to
14 operate a motor vehicle. R.S.39:4-50 currently prohibits driving
15 under the influence of narcotics, hallucinogens, and habit-producing
16 drugs.

17 The bill also amends the law providing that a person who
18 operates a motor vehicle in this State is deemed to have given
19 consent to the taking of breath samples for the purpose of making
20 chemical tests to determine blood-alcohol content. Under the bill's
21 provisions, a person who operates a motor vehicle also will be
22 deemed to have given consent to submitting to evaluations by a
23 certified drug recognition expert when requested by a law
24 enforcement officer, to determine whether the person is under the
25 influence of any drug or other substance or combination of
26 substances which can impair the person's ability to operate a motor
27 vehicle. A certified drug recognition expert is an individual
28 specially trained to make this determination. The Drug Recognition
29 Expert program and procedures were initially developed in the
30 1970's by the Los Angeles Police Department. This procedure
31 trains officers to use a standardized twelve-step evaluation process
32 that allows the officer to determine whether the suspect is under the
33 influence of drugs, and to determine the category of drug that is
34 causing the observable impairment. The twelve-step procedure also
35 allows the officer to rule in or out many medical conditions, such as
36 illness or injury, which may be contributing to the subject's
37 impairment. There are approximately 400 of these trained officers
38 in New Jersey, and 50 certified instructors.

39 The bill further provides that a person who refuses to submit to
40 an evaluation after being arrested for a violation of R.S.39:4-50
41 would be subject to the same penalties currently faced by a person
42 who refuses to submit to a test to determine the content of alcohol
43 in the person's blood. Those penalties include revoking the right to
44 operate a motor vehicle for seven months, in the case of a first
45 offender. For a second refusal, the person's license would be
46 revoked for two years and for a third or subsequent offense, 10
47 years.