

39:4-50

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 83
NJSA: 39:4-50 (Interlock devices—drunk driving)
BILL NO: S1475 (Substituted for A2605)
SPONSOR(S): Matheussen and Robertson
DATE INTRODUCED: June 22, 2000
COMMITTEE: **ASSEMBLY:** ----
 SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** June 29, 2000
 SENATE: June 29, 2000

DATE OF APPROVAL: August 14, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (2nd reprint)
(Amendments during passage denoted by superscript numbers)

S1475

SPONSORS STATEMENT: (Begins on page 13 of original bill)	Yes
COMMITTEE STATEMENT: ASSEMBLY:	No
SENATE:	Yes
FLOOR AMENDMENT STATEMENTS:	Yes
LEGISLATIVE FISCAL ESTIMATE:	Yes

A2605

SPONSORS STATEMENT: (Begins on page 13 of original bill)	Yes	
COMMITTEE STATEMENT: ASSEMBLY:	Yes	6-15-2000 (Transport.)
SENATE:	No	6-22-2000 (Approp.)
FLOOR AMENDMENT STATEMENTS:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	

Identical to fiscal estimate for S1475

FINAL VERSION (First reprint)	Yes
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
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NEWSPAPER ARTICLES:	No

SENATE, No. 1475

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 22, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

SYNOPSIS

Requires ignition interlock device or registration revocation for repeat drunk driving; prohibits possession of unsealed alcoholic beverage in motor vehicle.

CURRENT VERSION OF TEXT

As introduced.



S1475 MATHEUSSEN, ROBERTSON

2

1 AN ACT concerning drunk driving, amending R.S.39:4-50, P.L.1995,
2 c.286, P.L.1999, c.417 and R.S.33:1-1, and supplementing chapter
3 4 of Title 39 of the Revised Statutes.

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 drug,
12 or operates a motor vehicle with a blood alcohol concentration of
13 0.10% or more by weight of alcohol in the defendant's blood or
14 permits another person who is under the influence of intoxicating
15 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
16 motor vehicle owned by him or in his custody or control or permits
17 another to operate a motor vehicle with a blood alcohol concentration
18 of 0.10% or more by weight of alcohol in the defendant's blood, shall
19 be subject:

20 (1) For the first offense, to a fine of not less than \$250.00 nor
21 more than \$400.00 and a period of detainment of not less than
22 12 hours nor more than 48 hours spent during two consecutive days
23 of not less than six hours each day and served as prescribed by the
24 program requirements of the Intoxicated Driver Resource Centers
25 established under subsection (f) of this section and, in the discretion
26 of the court, a term of imprisonment of not more than 30 days and
27 shall forthwith forfeit his right to operate a motor vehicle over the
28 highways of this State for a period of not less than six months nor
29 more than one year. For a first offense, a person also shall be subject
30 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

31 (2) For a second violation, a person shall be subject to a fine of not
32 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
33 the court to perform community service for a period of 30 days, which
34 shall be of such form and on such terms as the court shall deem
35 appropriate under the circumstances, and shall be sentenced to
36 imprisonment for a term of not less than 48 consecutive hours, which
37 shall not be suspended or served on probation, nor more than 90 days,
38 and shall forfeit his right to operate a motor vehicle over the highways
39 of this State for a period of two years upon conviction, and, after the
40 expiration of said period, he may make application to the Director of
41 the Division of Motor Vehicles for a license to operate a motor
42 vehicle, which application may be granted at the discretion of the
43 director, consistent with subsection (b) of this section. For a second

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

Matter underlined thus is new matter.

1 violation, a person also shall be required to install an ignition interlock
2 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
3 or shall have his registration certificate and registration plates revoked
4 for two years under the provisions of section 2 of P.L.1995, c.286
5 (C.39:3-40.1).

6 (3) For a third or subsequent violation, a person shall be subject to
7 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term
8 of not less than 180 days, except that the court may lower such term
9 for each day, not exceeding 90 days, served performing community
10 service in such form and on such terms as the court shall deem
11 appropriate under the circumstances and shall thereafter forfeit his
12 right to operate a motor vehicle over the highways of this State for 10
13 years. For a third or subsequent violation, a person also shall be
14 required to install an ignition interlock device under the provisions of
15 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
16 certificate and registration plates revoked for 10 years under the
17 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

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

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

1 Center or other facility approved by the chief of the Intoxicated
2 Driving Program Unit in the Department of Health and Senior
3 Services; provided that for a third or subsequent offense a person shall
4 not serve a term of imprisonment at an Intoxicated Driver Resource
5 Center as provided in subsection (f).

6 A person who has been convicted of a previous violation of this
7 section need not be charged as a second or subsequent offender in the
8 complaint made against him in order to render him liable to the
9 punishment imposed by this section on a second or subsequent
10 offender, but if the second offense occurs more than 10 years after the
11 first offense, the court shall treat the second conviction as a first
12 offense for sentencing purposes and if a third offense occurs more than
13 10 years after the second offense, the court shall treat the third
14 conviction as a second offense for sentencing purposes.

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

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

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

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

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

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

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

1 comply.

2 Required detention periods at the Intoxicated Driver Resource
3 Centers shall be determined according to the individual treatment
4 classification assigned by the Intoxicated Driving Program Unit. Upon
5 attendance at an Intoxicated Driver Resource Center, a person shall be
6 required to pay a per diem fee of \$75.00 for the first offender program
7 or a per diem fee of \$100.00 for the second offender program, as
8 appropriate. Any increases in the per diem fees after the first full year
9 shall be determined pursuant to rules and regulations adopted by the
10 Commissioner of Health and Senior Services in consultation with the
11 Governor's Council on Alcoholism and Drug Abuse pursuant to the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.).

14 The centers shall conduct a program of alcohol and drug education
15 and highway safety, as prescribed by the Director of the Division of
16 Motor Vehicles.

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

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

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

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

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

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

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

14 [(h) In addition to any penalty or condition imposed by law or
15 regulation, a person who is subject to the provisions of this section
16 shall also be subject to the provisions of P.L.1999, c.417
17 (C.39:4-50.16 et al.).]
18 (cf: P.L.1999, c.417, s.7)

19

20 2. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
21 as follows:

22 2. a. [The] Any motor vehicle registration certificate and
23 registration plates [of any] shall be revoked if a person [who] is
24 convicted of violating the provisions of:

25 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
26 during a period when that violator's driver's license has been
27 suspended for a violation of R.S.39:4-50 [or];

28 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
29 during a period when that violator's driver's license has been
30 suspended within a five-year period [shall be revoked]; or

31 (3) R.S.39:4-50 for a second or subsequent offense, if such
32 revocation is ordered by the court as authorized under that section.

33 This revocation of registration certificate and registration plates
34 shall apply to all passenger automobiles and motorcycles owned or
35 leased by the violator and registered under the provisions of
36 R.S.39:3-4 and all noncommercial trucks owned or leased by the
37 violator and registered under the provisions of section 2 of P.L.1968,
38 c.439 (C.39:3-8.1), including those passenger automobiles,
39 motorcycles and noncommercial trucks registered or leased jointly in
40 the name of the violator and the other owner of record.

41 b. At the time of conviction, the court shall notify each violator
42 that the person's passenger automobile, motorcycle, and
43 noncommercial truck registrations are revoked. Notwithstanding the
44 provisions of R.S.39:5-35, the violator shall surrender the registration
45 certificate and registration plates of all passenger automobiles,
46 motorcycles, and noncommercial truck registrations subject to

1 revocation under the provisions of this section within 48 hours of the
2 court's notice. The surrender shall be at a place and in a manner
3 prescribed by the Director of the Division of Motor Vehicles pursuant
4 to rule and regulation. The court also shall notify the violator that a
5 failure to surrender that vehicle registration certificate and registration
6 plates shall result in the impoundment of the vehicle in accordance
7 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
8 the seizure of said registration certificate and registration plates. The
9 revocation authorized under the provisions of this subsection shall
10 remain in effect for the period during which the violator's license to
11 operate a motor vehicle is suspended and shall be enforced so as to
12 prohibit the violator from registering or leasing any other vehicle,
13 however acquired, during that period.

14 c. If the violator subject to the penalties set forth in subsections a.
15 and b. of this section for conviction of violating the provisions of
16 R.S.39:3-40 was operating a motor vehicle owned or leased by
17 another person and that other owner or lessee permitted [said] that
18 operation with knowledge that the violator's driver's license was
19 suspended, the court shall suspend the person's license to operate a
20 motor vehicle and revoke the registration certificate and registration
21 plates for that vehicle for a period of not more than six months.
22 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee
23 shall surrender the registration certificate and registration plates of
24 that vehicle within 48 hours of the court's notice of revocation. The
25 surrender shall be at a place and in a manner prescribed by the
26 Director of the Division of Motor Vehicles pursuant to rule and
27 regulation. The court also shall notify the owner or lessee that a
28 failure to surrender the revoked registration certificate and registration
29 plates shall result in the impoundment of the vehicle in accordance
30 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
31 the seizure of said registration certificate and registration plates.
32 Nothing in this subsection shall be construed to limit the court from
33 finding that owner or lessee guilty of violating R.S.39:3-39 or any
34 other such statute concerning the operation of a motor vehicle by an
35 unlicensed driver.

36 (cf: P.L.1995, c.286, s.2)

37

38 3. Section 3 of P.L.1995, c.286 (C.39:3-40.2) is amended to read
39 as follows:

40 3. a. The director may issue a temporary registration certificate
41 and temporary registration plates for a motor vehicle for which the
42 registration certificate and registration plates have been revoked under
43 the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1) if:

44 (1) the name of the applicant for the temporary registration
45 appeared upon the revoked registration certificate as a joint owner or
46 joint lessee of the motor vehicle; or

1 (2) the applicant for the temporary registration is the spouse, child,
2 dependent, parent or legal guardian of the violator or owner and
3 certifies, in a manner prescribed by the director, that the operation of
4 the motor vehicle is necessary for specified employment, educational,
5 health or medical purposes.

6 The application shall be in a manner and form prescribed by the
7 director. The application also shall include a signed certification that
8 the applicant shall not knowingly permit the violator to operate the
9 motor vehicle until the violator's license and driving privileges have
10 been restored by the director and that any violation of this provision
11 shall result in the revocation of the temporary registration issued for
12 the motor vehicle under the provisions of this section, that the motor
13 vehicle shall be ineligible for the temporary registration authorized
14 under this act, and that the motor vehicle may be impounded in
15 accordance with the provisions of section 4 of P.L.1995, c.286
16 (C.39:3-40.3) and the temporary registration certificate and temporary
17 registration plates seized.

18 b. The director shall issue a temporary registration certificate and
19 temporary registration plates for a motor vehicle registered under the
20 provisions of this section. As prescribed by the director, the
21 temporary registration plates shall bear a special series of numbers or
22 letters so as to be readily identifiable by law enforcement officers.

23 c. The director may issue a new registration to a lessor of a vehicle
24 for which the registration has been revoked pursuant to section 2 of
25 P.L.1995, c.286 (C.39:3-40.1) provided that the vehicle is not leased
26 to the same lessee.

27 d. The temporary registration authorized under this section shall
28 expire and become void on the last day of the sixth month following
29 the calendar month in which it was issued. All such temporary
30 registrations may be renewed, upon application, by the director.

31 The fee schedule for the temporary registration authorized under
32 this section shall be prescribed by the director. The schedule may
33 provide for differing fees based upon the manufacturer's shipping
34 weight and the model year of the motor vehicle; provided, however,
35 that no such temporary registration fee shall exceed \$75. The
36 registrant also shall pay a non-recurring \$25 fee for the temporary
37 registration plates issued by the director.

38 (cf: P.L.1995, c.286, s.3)

39

40 4. Section 8 of P.L.1999, c.417 is amended to read as follows:

41 8. The provisions of this act shall take effect [upon the
42 implementation of P.L.1999, c.28] on January 1, 2001, but shall apply
43 to convictions for violations of R.S.39:4-50 committed on or after
44 September 30, 2000.

45 (cf: P.L.1999, c.417, s.8)

- 1 5. R.S.33:1-1 is amended to read as follows:
- 2 33:1-1. For the purpose of this chapter, the following words and
- 3 terms shall be deemed to have the meanings herein given to them:
- 4 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
- 5 spirits from whatever source or by whatever process produced.
- 6 b. "Alcoholic beverage." Any fluid or solid capable of being
- 7 converted into a fluid, suitable for human consumption, and having an
- 8 alcohol content of more than one-half of one per centum (1/2 of 1%)
- 9 by volume, including alcohol, beer, lager beer, ale, porter, naturally
- 10 fermented wine, treated wine, blended wine, fortified wine, sparkling
- 11 wine, distilled liquors, blended distilled liquors and any brewed,
- 12 fermented or distilled liquors fit for use for beverage purposes or any
- 13 mixture of the same, and fruit juices.
- 14 c. "Building." A structure of which licensed premises are or may
- 15 be a part, including all rooms, cellars, outbuildings, passageways,
- 16 closets, vaults, yards, attics, and every part of the structure of which
- 17 the licensed premises are a part, and of any other structure to which
- 18 there is a common means of access, and any other appurtenances.
- 19 d. "Commissioner." The Director of the Division of Alcoholic
- 20 Beverage Control.
- 21 e. "Container." Any glass, can, bottle, vessel or receptacle of any
- 22 material whatsoever used for holding alcoholic beverages, which
- 23 container is covered, corked or sealed in any manner whatsoever.
- 24 f. "Eligible." The status of a person who is a citizen of the United
- 25 States, a resident of this State, of good moral character and repute,
- 26 and of legal age.
- 27 g. "Governing board or body." The board or body which governs
- 28 a municipality, including a board of aldermen in municipalities so
- 29 governed; but in every municipality having a board of public works
- 30 which exercises general licensing powers such board shall be
- 31 considered as the governing board or body.
- 32 h. "Importing." The act of bringing or causing to be brought any
- 33 alcoholic beverage into this State.
- 34 i. "Illicit beverage." Any alcoholic beverage manufactured,
- 35 distributed, bought, sold, bottled, rectified, blended, treated, fortified,
- 36 mixed, processed, warehoused, possessed or transported in violation
- 37 of this chapter, or on which any federal tax or tax imposed by the laws
- 38 of this State has not been paid; and any alcoholic beverage possessed,
- 39 kept, stored, owned or imported with intent to manufacture, sell,
- 40 distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse
- 41 or transport in violation of the provisions of this chapter.
- 42 j. "Licensed building." Any building containing licensed premises.
- 43 k. "Licensed premises." Any premises for which a license under this
- 44 chapter is in force and effect.
- 45 l. "Magistrate." The Superior Court or municipal court.
- 46 m. "Manufacturer." Any person who, directly or indirectly,

- 1 personally or through any agency whatsoever, engages in the making
2 or other processing whatsoever of alcoholic beverages.
- 3 n. "Municipality." Any city, town, township, village, or borough,
4 including a municipality governed by a board of commissioners or
5 improvement commission, but excluding a county.
- 6 o. "Municipal board." The municipal board of alcoholic beverage
7 control as established by this chapter.
- 8 p. "Officer." Any sheriff, deputy sheriff, constable, police officer,
9 member of the Division of State Police, or any other person having the
10 power to execute a warrant for arrest, or any inspector or investigator
11 of the Division of Alcoholic Beverage Control.
- 12 q. "Original container." Any container in which an alcoholic
13 beverage has been delivered to a retail licensee.
- 14 r. "Person." Any natural person or association of natural persons,
15 association, trust company, partnership, corporation, organization, or
16 the manager, agent, servant, officer, or employee of any of them.
- 17 s. "Premises." The physical place at which a licensee is or may be
18 licensed to conduct and carry on the manufacture, distribution or sale
19 of alcoholic beverages, but not including vehicular transportation.
- 20 t. "Restaurant." An establishment regularly and principally used for
21 the purpose of providing meals to the public, having an adequate
22 kitchen and dining room equipped for the preparing, cooking and
23 serving of food for its customers and in which no other business,
24 except such as is incidental to such establishment, is conducted.
- 25 u. "Retailer." Any person who sells alcoholic beverages to
26 consumers.
- 27 v. "Rules and regulations." The rules and regulations established
28 from time to time by the director.
- 29 w. "Sale." Every delivery of an alcoholic beverage otherwise than
30 by purely gratuitous title, including deliveries from without this State
31 and deliveries by any person without this State intended for shipment
32 by carrier or otherwise into this State and brought within this State, or
33 the solicitation or acceptance of an order for an alcoholic beverage,
34 and including exchange, barter, traffic in, keeping and exposing for
35 sale, serving with meals, delivering for value, peddling, possessing
36 with intent to sell, and the gratuitous delivery or gift of any alcoholic
37 beverage by any licensee.
- 38 x. "Unlawful alcoholic beverage activity." The manufacture, sale,
39 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
40 processing, warehousing or transportation of any alcoholic beverage
41 in violation of this chapter, or the importing, owning, possessing,
42 keeping or storing in this State of alcoholic beverages with intent to
43 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix,
44 process, warehouse or transport alcoholic beverages in violation of
45 this chapter, or the owning, possessing, keeping or storing in this State
46 of any implement or paraphernalia for the manufacture, sale,

1 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
2 processing, warehousing or transportation of alcoholic beverages with
3 intent to use the same in the manufacture, sale, distribution, bottling,
4 rectifying, blending, treating, fortifying, mixing, processing,
5 warehousing or transportation of alcoholic beverages in violation of
6 this chapter, or to aid or abet another in the manufacture, sale,
7 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
8 processing, warehousing or transportation of alcoholic beverages in
9 violation of this chapter, or the aiding or abetting of another in any of
10 the foregoing activities.

11 y. "Unlawful property." All illicit beverages and all implements,
12 vehicles, vessels, airplanes, and paraphernalia for the manufacture,
13 sale, distribution, bottling, rectifying, blending, treating, fortifying,
14 mixing, processing, warehousing or transportation of illicit beverages
15 used in the manufacture, sale, distribution, bottling, rectifying,
16 blending, treating, fortifying, mixing, processing, warehousing or
17 transportation of illicit beverages or owned, possessed, kept or stored
18 with intent to use the same in the manufacture, sale, distribution,
19 bottling, rectifying, blending, treating, fortifying, mixing, processing,
20 warehousing or transportation of illicit beverages, whether such use be
21 by the person owning, possessing, keeping, or storing the same, or by
22 another with the consent of such person; and all alcoholic beverages,
23 fixtures and personal property located in or upon any premises,
24 building, yard or inclosure connected with a building, in which an illicit
25 beverage is found, possessed, stored or kept.

26 z. "Wholesaler." Any person who sells an alcoholic beverage for
27 the purpose of resale either to a licensed wholesaler or to a licensed
28 retailer, or both.

29 aa. "Limousine." A motor vehicle used in the business of carrying
30 passengers for hire to provide prearranged passenger transportation at
31 a premium fare on a dedicated, nonscheduled, charter basis that is not
32 conducted on a regular route, or is furnished without fare as an
33 accommodation for a patron in connection with other business
34 purposes, and with a seating capacity in no event of more than
35 14 passengers, not including the driver, provided, that such a motor
36 vehicle shall not have a seating capacity in excess of four passengers,
37 not including the driver, beyond the maximum passenger seating
38 capacity of the vehicle, not including the driver, at the time of
39 manufacture. This shall not include taxicabs, hotel or airport shuttles
40 and buses, or buses employed solely in transporting schoolchildren or
41 teachers to and from school, or vehicles owned and operated without
42 charge or remuneration by a business entity for its own purposes.

43 bb. "Entertainment facility" is a privately-owned facility in which
44 athletic, commercial, cultural, or artistic events are featured.

45 Any definition herein contained shall apply to the same word in any
46 form. Thus "sell" means to make a "sale" as above defined.

47 (cf: P.L.1999, c.356, s.1)

1 6. (New section) a. All occupants of a motor vehicle located on
2 a public highway, or the right-of-way of a public highway, shall be
3 prohibited from possessing any open or unsealed alcoholic beverage
4 container. This subsection shall not apply to a passenger of a charter
5 or special bus operated as defined under R.S.48:4-1 or a limousine
6 service.

7 b. A person shall not be deemed to be in possession of an opened
8 or unsealed alcoholic beverage container pursuant to this section if
9 such container is located in the trunk of a motor vehicle, behind the
10 last upright seat in a trunkless vehicle, or in the living quarters of a
11 motor home or house trailer. For the purposes of this section, the
12 term "open or unsealed" shall mean a container with its original seal
13 broken or a container such as a glass or cup.

14 c. For a first offense, a person convicted of violating this section
15 shall be fined \$200 and shall be informed by the court of the penalties
16 for a second or subsequent violation of this section. For a second or
17 subsequent offense, a person convicted of violating this section shall
18 be fined \$250 or shall be ordered by the court to perform community
19 service for a period of 10 days in such form and on such terms as the
20 court shall deem appropriate under the circumstances.

21

22 7. This act shall take effect immediately, except that sections 1, 2
23 and 3 of this act shall take effect on September 30, 2000 and shall
24 apply to a conviction of a violation of R.S.39:4-50 committed on or
25 after this date. The Director of the Division of Motor Vehicles may
26 take such anticipatory administrative and regulatory action in advance
27 as shall be necessary to implement the provisions of this act.

28

29

30

STATEMENT

31

32 The federal Transportation Equity Act for the 21st Century (TEA-
33 21) requires states to comply with certain provisions related to the
34 prevention of drunk driving by October 1, 2000 or face the loss of
35 highway construction and maintenance funds. Specifically, TEA-21
36 requires each state to have in effect a law that mandates the
37 installation of an ignition interlock device on motor vehicles of repeat
38 drunk drivers or suspension of their registration privileges. TEA-21
39 also requires that states prohibit the possession of open alcoholic
40 beverage containers in motor vehicles. This bill is intended to bring
41 this State into compliance with these federal requirements.

42 Under the bill's provisions, persons who are convicted of a second
43 or subsequent drunk driving offense on or after September 30, 2000,
44 but before January 1, 2001, will have their registration revoked. On
45 and after January 1, 2001, the court will have the discretion to
46 determine which of the penalties, installation of an ignition interlock

1 device or revocation of registration privileges, should be imposed on
2 the repeat drunk driver. These penalties would be in addition to
3 existing penalties imposed for drunk driving under current law. The
4 bill also changes the effective date of P.L.1999, c.417 (C.39:4-50.16
5 et al.), the recently enacted law that established the ignition interlock
6 device requirement, to January 1, 2001.

7 The registration revocation provided for in the bill would apply to
8 all passenger automobiles, motorcycles and noncommercial trucks
9 owned or leased by the repeat drunk driving offender, including
10 vehicles that are jointly registered or leased by that offender. The
11 offender would be required to surrender to the Division of Motor
12 Vehicles in the Department of Transportation, within 48 hours, all
13 registration certificates and registration plates of currently registered
14 vehicles. Failure to comply could result in impoundment of these
15 vehicles. The period of registration revocation would be two years for
16 a second drunk driving conviction and ten years for a third or
17 subsequent drunk driving conviction and would run concurrent to the
18 period of license suspension imposed for the violation of R.S.39:4-50.

19 Under the bill, the spouse, child, dependent, parent or legal
20 guardian of the repeat drunk driver would be authorized to apply for
21 a temporary registration certificate and plates if these family members
22 would suffer a hardship in losing a vehicle relied upon for employment,
23 educational, health or medical purposes.

24 The installation of an ignition interlock device would be required
25 as a condition of driver's license restoration after the term of driver's
26 license suspension has been served. The term of the interlock device
27 requirement, to be determined by the court, would range from a
28 minimum period of one year up to a maximum period of three years,
29 and would commence immediately upon the return of the offender's
30 driver's license after the suspension imposed for the violation of
31 R.S.39:4-50. An ignition interlock would be required in every motor
32 vehicle owned, leased or regularly operated by the offender. The
33 court would continue to have the discretion to impose an interlock
34 device requirement for first-time drunk driving convictions.

35 Additionally, the bill prohibits the possession of an open or
36 unsealed alcoholic beverage container in the passenger area of motor
37 vehicles located on public highways or on the right-of-way of such
38 highways. Current State law only prohibits the consumption of
39 alcoholic beverages by the driver or passenger while the motor vehicle
40 is being operated. This prohibition on open containers would not
41 apply to charter bus or limousine passengers. An exception is also
42 made for opened or unsealed alcoholic beverage containers located in
43 the trunk of a motor vehicle, or if the motor vehicle does not have a
44 trunk, behind the last upright seat, and in the living quarters of a motor
45 home or house trailer. A \$200 fine would be imposed for a first
46 offense and a \$250 fine or 10 days' community service would be
47 imposed for a second or subsequent offense.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1475

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 26, 2000

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1475.

The federal Transportation Equity Act for the 21st Century (TEA-21) requires states to comply with certain provisions related to the prevention of drunk driving by October 1, 2000 or face the loss of highway construction and maintenance funds. Specifically, TEA-21 requires each state to have in effect a law that mandates the installation of an ignition interlock device on motor vehicles of repeat drunk drivers or suspension of their registration privileges. TEA-21 also requires that states prohibit the possession of open alcoholic beverage containers in motor vehicles. This bill is intended to bring this State into compliance with these federal requirements.

Under the bill's provisions, persons who are convicted of a second or subsequent drunk driving offense on or after September 30, 2000, but before January 1, 2001, will have their registration revoked. On and after January 1, 2001, the court will have the discretion to determine which of the penalties, installation of an ignition interlock device or revocation of registration privileges, should be imposed on the repeat drunk driver. These penalties would be in addition to existing penalties imposed for drunk driving under current law. The bill also changes the effective date of P.L.1999, c.417 (C.39:4-50.16 et al.), the recently enacted law that established the ignition interlock device requirement, to January 1, 2001.

The registration revocation provided for in the bill would apply to all passenger automobiles, motorcycles and noncommercial trucks owned or leased by the repeat drunk driving offender, including vehicles that are jointly registered or leased by that offender. The offender would be required to surrender to the Division of Motor Vehicles in the Department of Transportation, within 48 hours, all registration certificates and registration plates of currently registered vehicles. Failure to comply could result in impoundment of these vehicles. The period of registration revocation would be two years for a second drunk driving conviction and ten years for a third or subsequent drunk driving conviction and would run concurrent to the period of license suspension imposed for the violation of R.S.39:4-50.

Under the bill, the spouse, child, dependent, parent or legal guardian of the repeat drunk driver would be authorized to apply for a temporary registration certificate and plates if these family members would suffer a hardship in losing a vehicle relied upon for employment, educational, health or medical purposes.

The installation of an ignition interlock device would be required as a condition of driver's license restoration after the term of driver's license suspension has been served. The term of the interlock device requirement, to be determined by the court, would range from a minimum period of one year up to a maximum period of three years, and would commence immediately upon the return of the offender's driver's license after the suspension imposed for the violation of R.S.39:4-50. An ignition interlock would be required in every motor vehicle owned, leased or regularly operated by the offender. The court would continue to have the discretion to impose an interlock device requirement for first-time drunk driving convictions.

Additionally, the bill prohibits the possession of an open or unsealed alcoholic beverage container in the passenger area of motor vehicles located on public highways or on the right-of-way of such highways. Current State law only prohibits the consumption of alcoholic beverages by the driver or passenger while the motor vehicle is being operated. This prohibition on open containers would not apply to charter bus or limousine passengers. An exception is also made for opened or unsealed alcoholic beverage containers located in the trunk of a motor vehicle, or if the motor vehicle does not have a trunk, behind the last upright seat, and in the living quarters of a motor home or house trailer. A \$200 fine would be imposed for a first offense and a \$250 fine or 10 days' community service would be imposed for a second or subsequent offense.

COMMITTEE AMENDMENTS

Committee amendments to the bill's prohibition on possession of an open or unsealed alcoholic beverage container in a motor vehicle located on a public highway or right of way to clarify that the prohibition does not cover beverage containers that have been recorked or recapped.

FISCAL IMPACT

The New Jersey Department of Transportation has estimated that there are about 23,000 drunk driving convictions each year, of which 20 to 25 percent are repeat offenders. However, until actual experience is gained with the new restrictions the department cannot predict whether additional personnel will be needed to certify and audit persons installing interlock devices and to approve such devices.

No estimate is available of the fines for possessing open or unsealed alcoholic beverage containers.

[First Reprint]

SENATE, No. 1475

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 22, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator NORMAN M. ROBERTSON

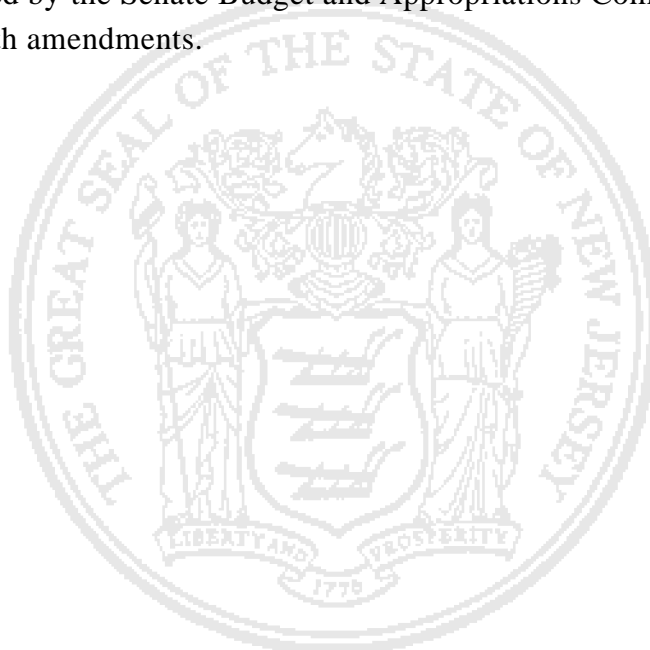
District 34 (Essex and Passaic)

SYNOPSIS

Requires ignition interlock device or registration revocation for repeat drunk driving; prohibits possession of unsealed alcoholic beverage in motor vehicle.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2000, with amendments.



1 AN ACT concerning drunk driving, amending R.S.39:4-50, P.L.1995,
2 c.286, P.L.1999, c.417 and R.S.33:1-1, and supplementing chapter
3 4 of Title 39 of the Revised Statutes.

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 drug,
12 or operates a motor vehicle with a blood alcohol concentration of
13 0.10% or more by weight of alcohol in the defendant's blood or
14 permits another person who is under the influence of intoxicating
15 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
16 motor vehicle owned by him or in his custody or control or permits
17 another to operate a motor vehicle with a blood alcohol concentration
18 of 0.10% or more by weight of alcohol in the defendant's blood, shall
19 be subject:

20 (1) For the first offense, to a fine of not less than \$250.00 nor
21 more than \$400.00 and a period of detainment of not less than
22 12 hours nor more than 48 hours spent during two consecutive days
23 of not less than six hours each day and served as prescribed by the
24 program requirements of the Intoxicated Driver Resource Centers
25 established under subsection (f) of this section and, in the discretion
26 of the court, a term of imprisonment of not more than 30 days and
27 shall forthwith forfeit his right to operate a motor vehicle over the
28 highways of this State for a period of not less than six months nor
29 more than one year. For a first offense, a person also shall be subject
30 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

31 (2) For a second violation, a person shall be subject to a fine of not
32 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
33 the court to perform community service for a period of 30 days, which
34 shall be of such form and on such terms as the court shall deem
35 appropriate under the circumstances, and shall be sentenced to
36 imprisonment for a term of not less than 48 consecutive hours, which
37 shall not be suspended or served on probation, nor more than 90 days,
38 and shall forfeit his right to operate a motor vehicle over the highways
39 of this State for a period of two years upon conviction, and, after the
40 expiration of said period, he may make application to the Director of
41 the Division of Motor Vehicles for a license to operate a motor
42 vehicle, which application may be granted at the discretion of the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 26, 2000.

1 director, consistent with subsection (b) of this section. For a second
2 violation, a person also shall be required to install an ignition interlock
3 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
4 or shall have his registration certificate and registration plates revoked
5 for two years under the provisions of section 2 of P.L.1995, c.286
6 (C.39:3-40.1).

7 (3) For a third or subsequent violation, a person shall be subject to
8 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term
9 of not less than 180 days, except that the court may lower such term
10 for each day, not exceeding 90 days, served performing community
11 service in such form and on such terms as the court shall deem
12 appropriate under the circumstances and shall thereafter forfeit his
13 right to operate a motor vehicle over the highways of this State for 10
14 years. For a third or subsequent violation, a person also shall be
15 required to install an ignition interlock device under the provisions of
16 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
17 certificate and registration plates revoked for 10 years under the
18 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

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

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

1 inpatient rehabilitation program or to an Intoxicated Driver Resource
2 Center or other facility approved by the chief of the Intoxicated
3 Driving Program Unit in the Department of Health and Senior
4 Services; provided that for a third or subsequent offense a person shall
5 not serve a term of imprisonment at an Intoxicated Driver Resource
6 Center as provided in subsection (f).

7 A person who has been convicted of a previous violation of this
8 section need not be charged as a second or subsequent offender in the
9 complaint made against him in order to render him liable to the
10 punishment imposed by this section on a second or subsequent
11 offender, but if the second offense occurs more than 10 years after the
12 first offense, the court shall treat the second conviction as a first
13 offense for sentencing purposes and if a third offense occurs more than
14 10 years after the second offense, the court shall treat the third
15 conviction as a second offense for sentencing purposes.

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

34 (c) Upon conviction of a violation of this section, the court shall
35 collect forthwith the New Jersey driver's license or licenses of the
36 person so convicted and forward such license or licenses to the
37 Director of the Division of Motor Vehicles. The court shall inform the
38 person convicted that if he is convicted of personally operating a
39 motor vehicle during the period of license suspension imposed
40 pursuant to subsection (a) of this section, he shall, upon conviction, be
41 subject to the penalties established in R.S.39:3-40. The person
42 convicted shall be informed orally and in writing. A person shall be
43 required to acknowledge receipt of that written notice in writing.
44 Failure to receive a written notice or failure to acknowledge in writing
45 the receipt of a written notice shall not be a defense to a subsequent
46 charge of a violation of R.S.39:3-40. In the event that a person

1 convicted under this section is the holder of any out-of-State driver's
2 license, the court shall not collect the license but shall notify forthwith
3 the director, who shall, in turn, notify appropriate officials in the
4 licensing jurisdiction. The court shall, however, revoke the
5 nonresident's driving privilege to operate a motor vehicle in this State,
6 in accordance with this section. Upon conviction of a violation of this
7 section, the court shall notify the person convicted, orally and in
8 writing, of the penalties for a second, third or subsequent violation of
9 this section. A person shall be required to acknowledge receipt of that
10 written notice in writing. Failure to receive a written notice or failure
11 to acknowledge in writing the receipt of a written notice shall not be
12 a defense to a subsequent charge of a violation of this section.

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

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

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

45 Upon a person's failure to report to the initial screening or any
46 subsequent ordered referral, the Intoxicated Driver Resource Center

1 shall promptly notify the sentencing court of the person's failure to
2 comply.

3 Required detention periods at the Intoxicated Driver Resource
4 Centers shall be determined according to the individual treatment
5 classification assigned by the Intoxicated Driving Program Unit. Upon
6 attendance at an Intoxicated Driver Resource Center, a person shall be
7 required to pay a per diem fee of \$75.00 for the first offender program
8 or a per diem fee of \$100.00 for the second offender program, as
9 appropriate. Any increases in the per diem fees after the first full year
10 shall be determined pursuant to rules and regulations adopted by the
11 Commissioner of Health and Senior Services in consultation with the
12 Governor's Council on Alcoholism and Drug Abuse pursuant to the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.).

15 The centers shall conduct a program of alcohol and drug education
16 and highway safety, as prescribed by the Director of the Division of
17 Motor Vehicles.

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

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

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

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

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

1 upon the completion of any prison sentence imposed upon that person.

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

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

15 [(h) In addition to any penalty or condition imposed by law or
16 regulation, a person who is subject to the provisions of this section
17 shall also be subject to the provisions of P.L.1999, c.417
18 (C.39:4-50.16 et al.).]

19 (cf: P.L.1999, c.417, s.7)

20

21 2. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
22 as follows:

23 2. a. [The] Any motor vehicle registration certificate and
24 registration plates [of any] shall be revoked if a person [who] is
25 convicted of violating the provisions of:

26 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
27 during a period when that violator's driver's license has been
28 suspended for a violation of R.S.39:4-50 [or];

29 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
30 during a period when that violator's driver's license has been
31 suspended within a five-year period [shall be revoked]; or

32 (3) R.S.39:4-50 for a second or subsequent offense, if such
33 revocation is ordered by the court as authorized under that section.

34 This revocation of registration certificate and registration plates
35 shall apply to all passenger automobiles and motorcycles owned or
36 leased by the violator and registered under the provisions of
37 R.S.39:3-4 and all noncommercial trucks owned or leased by the
38 violator and registered under the provisions of section 2 of P.L.1968,
39 c.439 (C.39:3-8.1), including those passenger automobiles,
40 motorcycles and noncommercial trucks registered or leased jointly in
41 the name of the violator and the other owner of record.

42 b. At the time of conviction, the court shall notify each violator
43 that the person's passenger automobile, motorcycle, and
44 noncommercial truck registrations are revoked. Notwithstanding the
45 provisions of R.S.39:5-35, the violator shall surrender the registration
46 certificate and registration plates of all passenger automobiles,

1 motorcycles, and noncommercial truck registrations subject to
2 revocation under the provisions of this section within 48 hours of the
3 court's notice. The surrender shall be at a place and in a manner
4 prescribed by the Director of the Division of Motor Vehicles pursuant
5 to rule and regulation. The court also shall notify the violator that a
6 failure to surrender that vehicle registration certificate and registration
7 plates shall result in the impoundment of the vehicle in accordance
8 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
9 the seizure of said registration certificate and registration plates. The
10 revocation authorized under the provisions of this subsection shall
11 remain in effect for the period during which the violator's license to
12 operate a motor vehicle is suspended and shall be enforced so as to
13 prohibit the violator from registering or leasing any other vehicle,
14 however acquired, during that period.

15 c. If the violator subject to the penalties set forth in subsections a.
16 and b. of this section for conviction of violating the provisions of
17 R.S.39:3-40 was operating a motor vehicle owned or leased by
18 another person and that other owner or lessee permitted [said] that
19 operation with knowledge that the violator's driver's license was
20 suspended, the court shall suspend the person's license to operate a
21 motor vehicle and revoke the registration certificate and registration
22 plates for that vehicle for a period of not more than six months.
23 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee
24 shall surrender the registration certificate and registration plates of
25 that vehicle within 48 hours of the court's notice of revocation. The
26 surrender shall be at a place and in a manner prescribed by the
27 Director of the Division of Motor Vehicles pursuant to rule and
28 regulation. The court also shall notify the owner or lessee that a
29 failure to surrender the revoked registration certificate and registration
30 plates shall result in the impoundment of the vehicle in accordance
31 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
32 the seizure of said registration certificate and registration plates.
33 Nothing in this subsection shall be construed to limit the court from
34 finding that owner or lessee guilty of violating R.S.39:3-39 or any
35 other such statute concerning the operation of a motor vehicle by an
36 unlicensed driver.

37 (cf: P.L.1995, c.286, s.2)

38

39 3. Section 3 of P.L.1995, c.286 (C.39:3-40.2) is amended to read
40 as follows:

41 3. a. The director may issue a temporary registration certificate
42 and temporary registration plates for a motor vehicle for which the
43 registration certificate and registration plates have been revoked under
44 the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1) if:

45 (1) the name of the applicant for the temporary registration
46 appeared upon the revoked registration certificate as a joint owner or

1 joint lessee of the motor vehicle; or

2 (2) the applicant for the temporary registration is the spouse, child,
3 dependent, parent or legal guardian of the violator or owner and
4 certifies, in a manner prescribed by the director, that the operation of
5 the motor vehicle is necessary for specified employment, educational,
6 health or medical purposes.

7 The application shall be in a manner and form prescribed by the
8 director. The application also shall include a signed certification that
9 the applicant shall not knowingly permit the violator to operate the
10 motor vehicle until the violator's license and driving privileges have
11 been restored by the director and that any violation of this provision
12 shall result in the revocation of the temporary registration issued for
13 the motor vehicle under the provisions of this section, that the motor
14 vehicle shall be ineligible for the temporary registration authorized
15 under this act, and that the motor vehicle may be impounded in
16 accordance with the provisions of section 4 of P.L.1995, c.286
17 (C.39:3-40.3) and the temporary registration certificate and temporary
18 registration plates seized.

19 b. The director shall issue a temporary registration certificate and
20 temporary registration plates for a motor vehicle registered under the
21 provisions of this section. As prescribed by the director, the
22 temporary registration plates shall bear a special series of numbers or
23 letters so as to be readily identifiable by law enforcement officers.

24 c. The director may issue a new registration to a lessor of a vehicle
25 for which the registration has been revoked pursuant to section 2 of
26 P.L.1995, c.286 (C.39:3-40.1) provided that the vehicle is not leased
27 to the same lessee.

28 d. The temporary registration authorized under this section shall
29 expire and become void on the last day of the sixth month following
30 the calendar month in which it was issued. All such temporary
31 registrations may be renewed, upon application, by the director.

32 The fee schedule for the temporary registration authorized under
33 this section shall be prescribed by the director. The schedule may
34 provide for differing fees based upon the manufacturer's shipping
35 weight and the model year of the motor vehicle; provided, however,
36 that no such temporary registration fee shall exceed \$75. The
37 registrant also shall pay a non-recurring \$25 fee for the temporary
38 registration plates issued by the director.

39 (cf: P.L.1995, c.286, s.3)

40

41 4. Section 8 of P.L.1999, c.417 is amended to read as follows:

42 8. The provisions of this act shall take effect [upon the
43 implementation of P.L.1999, c.28] on January 1, 2001, but shall apply
44 to convictions for violations of R.S.39:4-50 committed on or after
45 September 30, 2000.

46 (cf: P.L.1999, c.417, s.8)

- 1 5. R.S.33:1-1 is amended to read as follows:
- 2 33:1-1. For the purpose of this chapter, the following words and
- 3 terms shall be deemed to have the meanings herein given to them:
- 4 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
- 5 spirits from whatever source or by whatever process produced.
- 6 b. "Alcoholic beverage." Any fluid or solid capable of being
- 7 converted into a fluid, suitable for human consumption, and having an
- 8 alcohol content of more than one-half of one per centum (1/2 of 1%)
- 9 by volume, including alcohol, beer, lager beer, ale, porter, naturally
- 10 fermented wine, treated wine, blended wine, fortified wine, sparkling
- 11 wine, distilled liquors, blended distilled liquors and any brewed,
- 12 fermented or distilled liquors fit for use for beverage purposes or any
- 13 mixture of the same, and fruit juices.
- 14 c. "Building." A structure of which licensed premises are or may
- 15 be a part, including all rooms, cellars, outbuildings, passageways,
- 16 closets, vaults, yards, attics, and every part of the structure of which
- 17 the licensed premises are a part, and of any other structure to which
- 18 there is a common means of access, and any other appurtenances.
- 19 d. "Commissioner." The Director of the Division of Alcoholic
- 20 Beverage Control.
- 21 e. "Container." Any glass, can, bottle, vessel or receptacle of any
- 22 material whatsoever used for holding alcoholic beverages, which
- 23 container is covered, corked or sealed in any manner whatsoever.
- 24 f. "Eligible." The status of a person who is a citizen of the United
- 25 States, a resident of this State, of good moral character and repute,
- 26 and of legal age.
- 27 g. "Governing board or body." The board or body which governs
- 28 a municipality, including a board of aldermen in municipalities so
- 29 governed; but in every municipality having a board of public works
- 30 which exercises general licensing powers such board shall be
- 31 considered as the governing board or body.
- 32 h. "Importing." The act of bringing or causing to be brought any
- 33 alcoholic beverage into this State.
- 34 i. "Illicit beverage." Any alcoholic beverage manufactured,
- 35 distributed, bought, sold, bottled, rectified, blended, treated, fortified,
- 36 mixed, processed, warehoused, possessed or transported in violation
- 37 of this chapter, or on which any federal tax or tax imposed by the laws
- 38 of this State has not been paid; and any alcoholic beverage possessed,
- 39 kept, stored, owned or imported with intent to manufacture, sell,
- 40 distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse
- 41 or transport in violation of the provisions of this chapter.
- 42 j. "Licensed building." Any building containing licensed premises.
- 43 k. "Licensed premises." Any premises for which a license under this
- 44 chapter is in force and effect.
- 45 l. "Magistrate." The Superior Court or municipal court.
- 46 m. "Manufacturer." Any person who, directly or indirectly,

- 1 personally or through any agency whatsoever, engages in the making
2 or other processing whatsoever of alcoholic beverages.
- 3 n. "Municipality." Any city, town, township, village, or borough,
4 including a municipality governed by a board of commissioners or
5 improvement commission, but excluding a county.
- 6 o. "Municipal board." The municipal board of alcoholic beverage
7 control as established by this chapter.
- 8 p. "Officer." Any sheriff, deputy sheriff, constable, police officer,
9 member of the Division of State Police, or any other person having the
10 power to execute a warrant for arrest, or any inspector or investigator
11 of the Division of Alcoholic Beverage Control.
- 12 q. "Original container." Any container in which an alcoholic
13 beverage has been delivered to a retail licensee.
- 14 r. "Person." Any natural person or association of natural persons,
15 association, trust company, partnership, corporation, organization, or
16 the manager, agent, servant, officer, or employee of any of them.
- 17 s. "Premises." The physical place at which a licensee is or may be
18 licensed to conduct and carry on the manufacture, distribution or sale
19 of alcoholic beverages, but not including vehicular transportation.
- 20 t. "Restaurant." An establishment regularly and principally used for
21 the purpose of providing meals to the public, having an adequate
22 kitchen and dining room equipped for the preparing, cooking and
23 serving of food for its customers and in which no other business,
24 except such as is incidental to such establishment, is conducted.
- 25 u. "Retailer." Any person who sells alcoholic beverages to
26 consumers.
- 27 v. "Rules and regulations." The rules and regulations established
28 from time to time by the director.
- 29 w. "Sale." Every delivery of an alcoholic beverage otherwise than
30 by purely gratuitous title, including deliveries from without this State
31 and deliveries by any person without this State intended for shipment
32 by carrier or otherwise into this State and brought within this State, or
33 the solicitation or acceptance of an order for an alcoholic beverage,
34 and including exchange, barter, traffic in, keeping and exposing for
35 sale, serving with meals, delivering for value, peddling, possessing
36 with intent to sell, and the gratuitous delivery or gift of any alcoholic
37 beverage by any licensee.
- 38 x. "Unlawful alcoholic beverage activity." The manufacture, sale,
39 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
40 processing, warehousing or transportation of any alcoholic beverage
41 in violation of this chapter, or the importing, owning, possessing,
42 keeping or storing in this State of alcoholic beverages with intent to
43 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix,
44 process, warehouse or transport alcoholic beverages in violation of
45 this chapter, or the owning, possessing, keeping or storing in this State
46 of any implement or paraphernalia for the manufacture, sale,

1 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
2 processing, warehousing or transportation of alcoholic beverages with
3 intent to use the same in the manufacture, sale, distribution, bottling,
4 rectifying, blending, treating, fortifying, mixing, processing,
5 warehousing or transportation of alcoholic beverages in violation of
6 this chapter, or to aid or abet another in the manufacture, sale,
7 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
8 processing, warehousing or transportation of alcoholic beverages in
9 violation of this chapter, or the aiding or abetting of another in any of
10 the foregoing activities.

11 y. "Unlawful property." All illicit beverages and all implements,
12 vehicles, vessels, airplanes, and paraphernalia for the manufacture,
13 sale, distribution, bottling, rectifying, blending, treating, fortifying,
14 mixing, processing, warehousing or transportation of illicit beverages
15 used in the manufacture, sale, distribution, bottling, rectifying,
16 blending, treating, fortifying, mixing, processing, warehousing or
17 transportation of illicit beverages or owned, possessed, kept or stored
18 with intent to use the same in the manufacture, sale, distribution,
19 bottling, rectifying, blending, treating, fortifying, mixing, processing,
20 warehousing or transportation of illicit beverages, whether such use be
21 by the person owning, possessing, keeping, or storing the same, or by
22 another with the consent of such person; and all alcoholic beverages,
23 fixtures and personal property located in or upon any premises,
24 building, yard or inclosure connected with a building, in which an illicit
25 beverage is found, possessed, stored or kept.

26 z. "Wholesaler." Any person who sells an alcoholic beverage for
27 the purpose of resale either to a licensed wholesaler or to a licensed
28 retailer, or both.

29 aa. "Limousine." A motor vehicle used in the business of carrying
30 passengers for hire to provide prearranged passenger transportation at
31 a premium fare on a dedicated, nonscheduled, charter basis that is not
32 conducted on a regular route, or is furnished without fare as an
33 accommodation for a patron in connection with other business
34 purposes, and with a seating capacity in no event of more than
35 14 passengers, not including the driver, provided, that such a motor
36 vehicle shall not have a seating capacity in excess of four passengers,
37 not including the driver, beyond the maximum passenger seating
38 capacity of the vehicle, not including the driver, at the time of
39 manufacture. This shall not include taxicabs, hotel or airport shuttles
40 and buses, or buses employed solely in transporting schoolchildren or
41 teachers to and from school, or vehicles owned and operated without
42 charge or remuneration by a business entity for its own purposes.

43 bb. "Entertainment facility" is a privately-owned facility in which
44 athletic, commercial, cultural, or artistic events are featured.

45 Any definition herein contained shall apply to the same word in any
46 form. Thus "sell" means to make a "sale" as above defined.

1 (cf: P.L.1999, c.356, s.1)

2 6. (New section) a. All occupants of a motor vehicle located on
3 a public highway, or the right-of-way of a public highway, shall be
4 prohibited from possessing any open or unsealed alcoholic beverage
5 container. This subsection shall not apply to a passenger of a charter
6 or special bus operated as defined under R.S.48:4-1 or a limousine
7 service.

8 b. A person shall not be deemed to be in possession of an opened
9 or unsealed alcoholic beverage container pursuant to this section if
10 such container is located in the trunk of a motor vehicle, behind the
11 last upright seat in a trunkless vehicle, or in the living quarters of a
12 motor home or house trailer. For the purposes of this section, the
13 term "open or ¹~~unsealed~~ unsealed alcoholic beverage container"¹
14 shall mean a container with its original seal broken or a container such
15 as a glass or cup¹, but shall not include a container that has been
16 recorked or recapped¹.

17 c. For a first offense, a person convicted of violating this section
18 shall be fined \$200 and shall be informed by the court of the penalties
19 for a second or subsequent violation of this section. For a second or
20 subsequent offense, a person convicted of violating this section shall
21 be fined \$250 or shall be ordered by the court to perform community
22 service for a period of 10 days in such form and on such terms as the
23 court shall deem appropriate under the circumstances.

24

25 7. This act shall take effect immediately, except that sections 1, 2
26 and 3 of this act shall take effect on September 30, 2000 and shall
27 apply to a conviction of a violation of R.S.39:4-50 committed on or
28 after this date. The Director of the Division of Motor Vehicles may
29 take such anticipatory administrative and regulatory action in advance
30 as shall be necessary to implement the provisions of this act.

STATEMENT TO
[First Reprint]
SENATE, No. 1475

with Assembly Floor Amendments
(Proposed By Assemblyman DeCROCE)

ADOPTED: JUNE 29, 2000

These amendments make this bill identical to Assembly Bill No. 2605 (1R). The amendments remove language inserted by the Senate Budget and Appropriations Committee to permit an opened container that has been recorked or recapped to be transported in the passenger compartment of a vehicle.

[Second Reprint]

SENATE, No. 1475

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 22, 2000

Sponsored by:

Senator JOHN J. MATHEUSSEN

District 4 (Camden and Gloucester)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Co-Sponsored by:

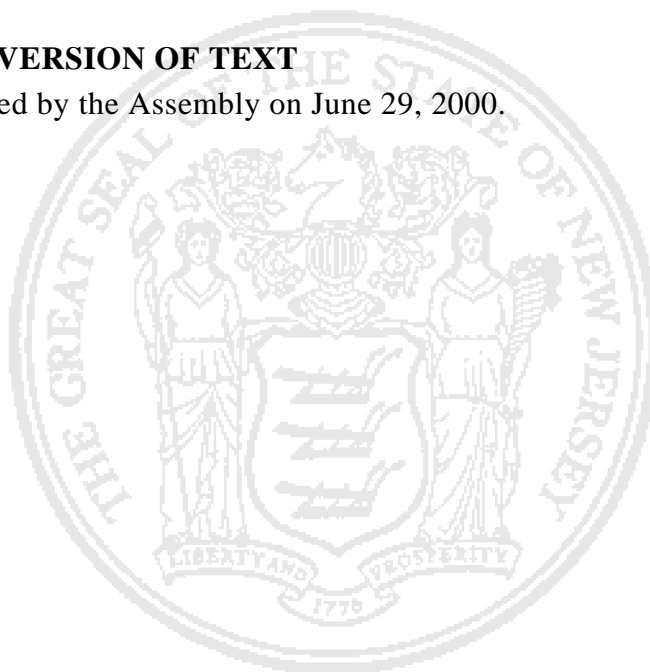
**Senator Bucco, Assemblymen DeCroce, Bodine, Augustine, Gusciora,
Merkt, Wisniewski and Assemblywoman Previte**

SYNOPSIS

Requires ignition interlock device or registration revocation for repeat drunk driving; prohibits possession of unsealed alcoholic beverage in motor vehicle.

CURRENT VERSION OF TEXT

As amended by the Assembly on June 29, 2000.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning drunk driving, amending R.S.39:4-50, P.L.1995,
2 c.286, P.L.1999, c.417 and R.S.33:1-1, and supplementing chapter
3 4 of Title 39 of the Revised Statutes.

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 drug,
12 or operates a motor vehicle with a blood alcohol concentration of
13 0.10% or more by weight of alcohol in the defendant's blood or
14 permits another person who is under the influence of intoxicating
15 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
16 motor vehicle owned by him or in his custody or control or permits
17 another to operate a motor vehicle with a blood alcohol concentration
18 of 0.10% or more by weight of alcohol in the defendant's blood, shall
19 be subject:

20 (1) For the first offense, to a fine of not less than \$250.00 nor
21 more than \$400.00 and a period of detainment of not less than
22 12 hours nor more than 48 hours spent during two consecutive days
23 of not less than six hours each day and served as prescribed by the
24 program requirements of the Intoxicated Driver Resource Centers
25 established under subsection (f) of this section and, in the discretion
26 of the court, a term of imprisonment of not more than 30 days and
27 shall forthwith forfeit his right to operate a motor vehicle over the
28 highways of this State for a period of not less than six months nor
29 more than one year. For a first offense, a person also shall be subject
30 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

31 (2) For a second violation, a person shall be subject to a fine of not
32 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
33 the court to perform community service for a period of 30 days, which
34 shall be of such form and on such terms as the court shall deem
35 appropriate under the circumstances, and shall be sentenced to
36 imprisonment for a term of not less than 48 consecutive hours, which
37 shall not be suspended or served on probation, nor more than 90 days,
38 and shall forfeit his right to operate a motor vehicle over the highways
39 of this State for a period of two years upon conviction, and, after the
40 expiration of said period, he may make application to the Director of
41 the Division of Motor Vehicles for a license to operate a motor

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 26, 2000.

² Assembly floor amendments adopted June 29, 2000.

1 vehicle, which application may be granted at the discretion of the
2 director, consistent with subsection (b) of this section. For a second
3 violation, a person also shall be required to install an ignition interlock
4 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
5 or shall have his registration certificate and registration plates revoked
6 for two years under the provisions of section 2 of P.L.1995, c.286
7 (C.39:3-40.1).

8 (3) For a third or subsequent violation, a person shall be subject to
9 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term
10 of not less than 180 days, except that the court may lower such term
11 for each day, not exceeding 90 days, served performing community
12 service in such form and on such terms as the court shall deem
13 appropriate under the circumstances and shall thereafter forfeit his
14 right to operate a motor vehicle over the highways of this State for 10
15 years. For a third or subsequent violation, a person also shall be
16 required to install an ignition interlock device under the provisions of
17 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
18 certificate and registration plates revoked for 10 years under the
19 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

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

34 If the driving privilege of any person is under revocation or
35 suspension for a violation of any provision of this Title or Title 2C of
36 the New Jersey Statutes at the time of any conviction for a violation
37 of this section, the revocation or suspension period imposed shall
38 commence as of the date of termination of the existing revocation or
39 suspension period. In the case of any person who at the time of the
40 imposition of sentence is less than 17 years of age, the forfeiture,
41 suspension or revocation of the driving privilege imposed by the court
42 under this section shall commence immediately, run through the
43 offender's seventeenth birthday and continue from that date for the
44 period set by the court pursuant to paragraphs (1) through (3) of this
45 subsection. A court that imposes a term of imprisonment under this
46 section may sentence the person so convicted to the county jail, to the

1 workhouse of the county wherein the offense was committed, to an
2 inpatient rehabilitation program or to an Intoxicated Driver Resource
3 Center or other facility approved by the chief of the Intoxicated
4 Driving Program Unit in the Department of Health and Senior
5 Services; provided that for a third or subsequent offense a person shall
6 not serve a term of imprisonment at an Intoxicated Driver Resource
7 Center as provided in subsection (f).

8 A person who has been convicted of a previous violation of this
9 section need not be charged as a second or subsequent offender in the
10 complaint made against him in order to render him liable to the
11 punishment imposed by this section on a second or subsequent
12 offender, but if the second offense occurs more than 10 years after the
13 first offense, the court shall treat the second conviction as a first
14 offense for sentencing purposes and if a third offense occurs more than
15 10 years after the second offense, the court shall treat the third
16 conviction as a second offense for sentencing purposes.

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

35 (c) Upon conviction of a violation of this section, the court shall
36 collect forthwith the New Jersey driver's license or licenses of the
37 person so convicted and forward such license or licenses to the
38 Director of the Division of Motor Vehicles. The court shall inform the
39 person convicted that if he is convicted of personally operating a
40 motor vehicle during the period of license suspension imposed
41 pursuant to subsection (a) of this section, he shall, upon conviction, be
42 subject to the penalties established in R.S.39:3-40. The person
43 convicted shall be informed orally and in writing. A person shall be
44 required to acknowledge receipt of that written notice in writing.
45 Failure to receive a written notice or failure to acknowledge in writing
46 the receipt of a written notice shall not be a defense to a subsequent

1 charge of a violation of R.S.39:3-40. In the event that a person
2 convicted under this section is the holder of any out-of-State driver's
3 license, the court shall not collect the license but shall notify forthwith
4 the director, who shall, in turn, notify appropriate officials in the
5 licensing jurisdiction. The court shall, however, revoke the
6 nonresident's driving privilege to operate a motor vehicle in this State,
7 in accordance with this section. Upon conviction of a violation of this
8 section, the court shall notify the person convicted, orally and in
9 writing, of the penalties for a second, third or subsequent violation of
10 this section. A person shall be required to acknowledge receipt of that
11 written notice in writing. Failure to receive a written notice or failure
12 to acknowledge in writing the receipt of a written notice shall not be
13 a defense to a subsequent charge of a violation of this section.

14 (d) The Director of the Division of Motor Vehicles shall
15 promulgate rules and regulations pursuant to the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to
17 establish a program of alcohol education and highway safety, as
18 prescribed by this act.

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

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

46 Upon a person's failure to report to the initial screening or any

1 subsequent ordered referral, the Intoxicated Driver Resource Center
2 shall promptly notify the sentencing court of the person's failure to
3 comply.

4 Required detention periods at the Intoxicated Driver Resource
5 Centers shall be determined according to the individual treatment
6 classification assigned by the Intoxicated Driving Program Unit. Upon
7 attendance at an Intoxicated Driver Resource Center, a person shall be
8 required to pay a per diem fee of \$75.00 for the first offender program
9 or a per diem fee of \$100.00 for the second offender program, as
10 appropriate. Any increases in the per diem fees after the first full year
11 shall be determined pursuant to rules and regulations adopted by the
12 Commissioner of Health and Senior Services in consultation with the
13 Governor's Council on Alcoholism and Drug Abuse pursuant to the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16 The centers shall conduct a program of alcohol and drug education
17 and highway safety, as prescribed by the Director of the Division of
18 Motor Vehicles.

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

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

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

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

30 (3) driving through a school crossing as defined in R.S.39:1-1
31 knowing that juveniles are present if the municipality has not
32 designated the school crossing as such by ordinance or resolution, the
33 convicted person shall: for a first offense, be fined not less than \$500
34 or more than \$800, be imprisoned for not more than 60 days and have
35 his license to operate a motor vehicle suspended for a period of not
36 less than one year or more than two years; for a second offense, be
37 fined not less than \$1,000 or more than \$2,000, perform community
38 service for a period of 60 days, be imprisoned for not less than
39 96 consecutive hours, which shall not be suspended or served on
40 probation, nor more than 180 days, except that the court may lower
41 such term for each day, not exceeding 90 days, served performing
42 community service in such form and on such terms as the court shall
43 deem appropriate under the circumstances and have his license to
44 operate a motor vehicle suspended for a period of not less than four
45 years; and, for a third offense, be fined \$2,000, imprisoned for
46 180 days and have his license to operate a motor vehicle suspended for

1 a period of 20 years; the period of license suspension shall commence
2 upon the completion of any prison sentence imposed upon that person.

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

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

16 [(h) In addition to any penalty or condition imposed by law or
17 regulation, a person who is subject to the provisions of this section
18 shall also be subject to the provisions of P.L.1999, c.417
19 (C.39:4-50.16 et al.).]

20 (cf: P.L.1999, c.417, s.7)

21

22 2. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
23 as follows:

24 2. a. [The] Any motor vehicle registration certificate and
25 registration plates [of any] shall be revoked if a person [who] is
26 convicted of violating the provisions of:

27 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
28 during a period when that violator's driver's license has been
29 suspended for a violation of R.S.39:4-50 [or];

30 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
31 during a period when that violator's driver's license has been
32 suspended within a five-year period [shall be revoked]; or

33 (3) R.S.39:4-50 for a second or subsequent offense, if such
34 revocation is ordered by the court as authorized under that section.

35 This revocation of registration certificate and registration plates
36 shall apply to all passenger automobiles and motorcycles owned or
37 leased by the violator and registered under the provisions of
38 R.S.39:3-4 and all noncommercial trucks owned or leased by the
39 violator and registered under the provisions of section 2 of P.L.1968,
40 c.439 (C.39:3-8.1), including those passenger automobiles,
41 motorcycles and noncommercial trucks registered or leased jointly in
42 the name of the violator and the other owner of record.

43 b. At the time of conviction, the court shall notify each violator
44 that the person's passenger automobile, motorcycle, and
45 noncommercial truck registrations are revoked. Notwithstanding the
46 provisions of R.S.39:5-35, the violator shall surrender the registration

1 certificate and registration plates of all passenger automobiles,
2 motorcycles, and noncommercial truck registrations subject to
3 revocation under the provisions of this section within 48 hours of the
4 court's notice. The surrender shall be at a place and in a manner
5 prescribed by the Director of the Division of Motor Vehicles pursuant
6 to rule and regulation. The court also shall notify the violator that a
7 failure to surrender that vehicle registration certificate and registration
8 plates shall result in the impoundment of the vehicle in accordance
9 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
10 the seizure of said registration certificate and registration plates. The
11 revocation authorized under the provisions of this subsection shall
12 remain in effect for the period during which the violator's license to
13 operate a motor vehicle is suspended and shall be enforced so as to
14 prohibit the violator from registering or leasing any other vehicle,
15 however acquired, during that period.

16 c. If the violator subject to the penalties set forth in subsections a.
17 and b. of this section for conviction of violating the provisions of
18 R.S.39:3-40 was operating a motor vehicle owned or leased by
19 another person and that other owner or lessee permitted [said] that
20 operation with knowledge that the violator's driver's license was
21 suspended, the court shall suspend the person's license to operate a
22 motor vehicle and revoke the registration certificate and registration
23 plates for that vehicle for a period of not more than six months.
24 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee
25 shall surrender the registration certificate and registration plates of
26 that vehicle within 48 hours of the court's notice of revocation. The
27 surrender shall be at a place and in a manner prescribed by the
28 Director of the Division of Motor Vehicles pursuant to rule and
29 regulation. The court also shall notify the owner or lessee that a
30 failure to surrender the revoked registration certificate and registration
31 plates shall result in the impoundment of the vehicle in accordance
32 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
33 the seizure of said registration certificate and registration plates.
34 Nothing in this subsection shall be construed to limit the court from
35 finding that owner or lessee guilty of violating R.S.39:3-39 or any
36 other such statute concerning the operation of a motor vehicle by an
37 unlicensed driver.

38 (cf: P.L.1995, c.286, s.2)

39

40 3. Section 3 of P.L.1995, c.286 (C.39:3-40.2) is amended to read
41 as follows:

42 3. a. The director may issue a temporary registration certificate
43 and temporary registration plates for a motor vehicle for which the
44 registration certificate and registration plates have been revoked under
45 the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1) if:

46 (1) the name of the applicant for the temporary registration

1 appeared upon the revoked registration certificate as a joint owner or
2 joint lessee of the motor vehicle; or

3 (2) the applicant for the temporary registration is the spouse, child,
4 dependent, parent or legal guardian of the violator or owner and
5 certifies, in a manner prescribed by the director, that the operation of
6 the motor vehicle is necessary for specified employment, educational,
7 health or medical purposes.

8 The application shall be in a manner and form prescribed by the
9 director. The application also shall include a signed certification that
10 the applicant shall not knowingly permit the violator to operate the
11 motor vehicle until the violator's license and driving privileges have
12 been restored by the director and that any violation of this provision
13 shall result in the revocation of the temporary registration issued for
14 the motor vehicle under the provisions of this section, that the motor
15 vehicle shall be ineligible for the temporary registration authorized
16 under this act, and that the motor vehicle may be impounded in
17 accordance with the provisions of section 4 of P.L.1995, c.286
18 (C.39:3-40.3) and the temporary registration certificate and temporary
19 registration plates seized.

20 b. The director shall issue a temporary registration certificate and
21 temporary registration plates for a motor vehicle registered under the
22 provisions of this section. As prescribed by the director, the
23 temporary registration plates shall bear a special series of numbers or
24 letters so as to be readily identifiable by law enforcement officers.

25 c. The director may issue a new registration to a lessor of a vehicle
26 for which the registration has been revoked pursuant to section 2 of
27 P.L.1995, c.286 (C.39:3-40.1) provided that the vehicle is not leased
28 to the same lessee.

29 d. The temporary registration authorized under this section shall
30 expire and become void on the last day of the sixth month following
31 the calendar month in which it was issued. All such temporary
32 registrations may be renewed, upon application, by the director.

33 The fee schedule for the temporary registration authorized under
34 this section shall be prescribed by the director. The schedule may
35 provide for differing fees based upon the manufacturer's shipping
36 weight and the model year of the motor vehicle; provided, however,
37 that no such temporary registration fee shall exceed \$75. The
38 registrant also shall pay a non-recurring \$25 fee for the temporary
39 registration plates issued by the director.

40 (cf: P.L.1995, c.286, s.3)

41

42 4. Section 8 of P.L.1999, c.417 is amended to read as follows:

43 8. The provisions of this act shall take effect [upon the
44 implementation of P.L.1999, c.28] on January 1, 2001, but shall apply
45 to convictions for violations of R.S.39:4-50 committed on or after

1 September 30, 2000.

2 (cf: P.L.1999, c.417, s.8)

3

4 5. R.S.33:1-1 is amended to read as follows:

5 33:1-1. For the purpose of this chapter, the following words and
6 terms shall be deemed to have the meanings herein given to them:

7 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
8 spirits from whatever source or by whatever process produced.

9 b. "Alcoholic beverage." Any fluid or solid capable of being
10 converted into a fluid, suitable for human consumption, and having an
11 alcohol content of more than one-half of one per centum (1/2 of 1%)
12 by volume, including alcohol, beer, lager beer, ale, porter, naturally
13 fermented wine, treated wine, blended wine, fortified wine, sparkling
14 wine, distilled liquors, blended distilled liquors and any brewed,
15 fermented or distilled liquors fit for use for beverage purposes or any
16 mixture of the same, and fruit juices.

17 c. "Building." A structure of which licensed premises are or may
18 be a part, including all rooms, cellars, outbuildings, passageways,
19 closets, vaults, yards, attics, and every part of the structure of which
20 the licensed premises are a part, and of any other structure to which
21 there is a common means of access, and any other appurtenances.

22 d. "Commissioner." The Director of the Division of Alcoholic
23 Beverage Control.

24 e. "Container." Any glass, can, bottle, vessel or receptacle of any
25 material whatsoever used for holding alcoholic beverages, which
26 container is covered, corked or sealed in any manner whatsoever.

27 f. "Eligible." The status of a person who is a citizen of the United
28 States, a resident of this State, of good moral character and repute,
29 and of legal age.

30 g. "Governing board or body." The board or body which governs
31 a municipality, including a board of aldermen in municipalities so
32 governed; but in every municipality having a board of public works
33 which exercises general licensing powers such board shall be
34 considered as the governing board or body.

35 h. "Importing." The act of bringing or causing to be brought any
36 alcoholic beverage into this State.

37 i. "Illicit beverage." Any alcoholic beverage manufactured,
38 distributed, bought, sold, bottled, rectified, blended, treated, fortified,
39 mixed, processed, warehoused, possessed or transported in violation
40 of this chapter, or on which any federal tax or tax imposed by the laws
41 of this State has not been paid; and any alcoholic beverage possessed,
42 kept, stored, owned or imported with intent to manufacture, sell,
43 distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse
44 or transport in violation of the provisions of this chapter.

45 j. "Licensed building." Any building containing licensed premises.

46 k. "Licensed premises." Any premises for which a license under this

- 1 chapter is in force and effect.
- 2 l. "Magistrate." The Superior Court or municipal court.
- 3 m. "Manufacturer." Any person who, directly or indirectly,
4 personally or through any agency whatsoever, engages in the making
5 or other processing whatsoever of alcoholic beverages.
- 6 n. "Municipality." Any city, town, township, village, or borough,
7 including a municipality governed by a board of commissioners or
8 improvement commission, but excluding a county.
- 9 o. "Municipal board." The municipal board of alcoholic beverage
10 control as established by this chapter.
- 11 p. "Officer." Any sheriff, deputy sheriff, constable, police officer,
12 member of the Division of State Police, or any other person having the
13 power to execute a warrant for arrest, or any inspector or investigator
14 of the Division of Alcoholic Beverage Control.
- 15 q. "Original container." Any container in which an alcoholic
16 beverage has been delivered to a retail licensee.
- 17 r. "Person." Any natural person or association of natural persons,
18 association, trust company, partnership, corporation, organization, or
19 the manager, agent, servant, officer, or employee of any of them.
- 20 s. "Premises." The physical place at which a licensee is or may be
21 licensed to conduct and carry on the manufacture, distribution or sale
22 of alcoholic beverages, but not including vehicular transportation.
- 23 t. "Restaurant." An establishment regularly and principally used for
24 the purpose of providing meals to the public, having an adequate
25 kitchen and dining room equipped for the preparing, cooking and
26 serving of food for its customers and in which no other business,
27 except such as is incidental to such establishment, is conducted.
- 28 u. "Retailer." Any person who sells alcoholic beverages to
29 consumers.
- 30 v. "Rules and regulations." The rules and regulations established
31 from time to time by the director.
- 32 w. "Sale." Every delivery of an alcoholic beverage otherwise than
33 by purely gratuitous title, including deliveries from without this State
34 and deliveries by any person without this State intended for shipment
35 by carrier or otherwise into this State and brought within this State, or
36 the solicitation or acceptance of an order for an alcoholic beverage,
37 and including exchange, barter, traffic in, keeping and exposing for
38 sale, serving with meals, delivering for value, peddling, possessing
39 with intent to sell, and the gratuitous delivery or gift of any alcoholic
40 beverage by any licensee.
- 41 x. "Unlawful alcoholic beverage activity." The manufacture, sale,
42 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
43 processing, warehousing or transportation of any alcoholic beverage
44 in violation of this chapter, or the importing, owning, possessing,
45 keeping or storing in this State of alcoholic beverages with intent to
46 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix,

1 process, warehouse or transport alcoholic beverages in violation of
2 this chapter, or the owning, possessing, keeping or storing in this State
3 of any implement or paraphernalia for the manufacture, sale,
4 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
5 processing, warehousing or transportation of alcoholic beverages with
6 intent to use the same in the manufacture, sale, distribution, bottling,
7 rectifying, blending, treating, fortifying, mixing, processing,
8 warehousing or transportation of alcoholic beverages in violation of
9 this chapter, or to aid or abet another in the manufacture, sale,
10 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
11 processing, warehousing or transportation of alcoholic beverages in
12 violation of this chapter, or the aiding or abetting of another in any of
13 the foregoing activities.

14 y. "Unlawful property." All illicit beverages and all implements,
15 vehicles, vessels, airplanes, and paraphernalia for the manufacture,
16 sale, distribution, bottling, rectifying, blending, treating, fortifying,
17 mixing, processing, warehousing or transportation of illicit beverages
18 used in the manufacture, sale, distribution, bottling, rectifying,
19 blending, treating, fortifying, mixing, processing, warehousing or
20 transportation of illicit beverages or owned, possessed, kept or stored
21 with intent to use the same in the manufacture, sale, distribution,
22 bottling, rectifying, blending, treating, fortifying, mixing, processing,
23 warehousing or transportation of illicit beverages, whether such use be
24 by the person owning, possessing, keeping, or storing the same, or by
25 another with the consent of such person; and all alcoholic beverages,
26 fixtures and personal property located in or upon any premises,
27 building, yard or inclosure connected with a building, in which an illicit
28 beverage is found, possessed, stored or kept.

29 z. "Wholesaler." Any person who sells an alcoholic beverage for
30 the purpose of resale either to a licensed wholesaler or to a licensed
31 retailer, or both.

32 aa. "Limousine." A motor vehicle used in the business of carrying
33 passengers for hire to provide prearranged passenger transportation at
34 a premium fare on a dedicated, nonscheduled, charter basis that is not
35 conducted on a regular route, or is furnished without fare as an
36 accommodation for a patron in connection with other business
37 purposes, and with a seating capacity in no event of more than
38 14 passengers, not including the driver, provided, that such a motor
39 vehicle shall not have a seating capacity in excess of four passengers,
40 not including the driver, beyond the maximum passenger seating
41 capacity of the vehicle, not including the driver, at the time of
42 manufacture. This shall not include taxicabs, hotel or airport shuttles
43 and buses, or buses employed solely in transporting schoolchildren or
44 teachers to and from school, or vehicles owned and operated without
45 charge or remuneration by a business entity for its own purposes.

46 bb. "Entertainment facility" is a privately-owned facility in which

1 athletic, commercial, cultural, or artistic events are featured.

2 Any definition herein contained shall apply to the same word in any
3 form. Thus "sell" means to make a "sale" as above defined.

4 (cf: P.L.1999, c.356, s.1)

5

6 6. (New section) a. All occupants of a motor vehicle located on
7 a public highway, or the right-of-way of a public highway, shall be
8 prohibited from possessing any open or unsealed alcoholic beverage
9 container. This subsection shall not apply to a passenger of a charter
10 or special bus operated as defined under R.S.48:4-1 or a limousine
11 service.

12 b. A person shall not be deemed to be in possession of an opened
13 or unsealed alcoholic beverage container pursuant to this section if
14 such container is located in the trunk of a motor vehicle, behind the
15 last upright seat in a trunkless vehicle, or in the living quarters of a
16 motor home or house trailer. For the purposes of this section, the
17 term "open or ¹[unsealed]" ²[unsealed alcoholic beverage
18 container"¹] unsealed"² shall mean a container with its original seal
19 broken or a container such as a glass or cup ²[¹, but shall not include
20 a container that has been recorked or recapped¹]².

21 c. For a first offense, a person convicted of violating this section
22 shall be fined \$200 and shall be informed by the court of the penalties
23 for a second or subsequent violation of this section. For a second or
24 subsequent offense, a person convicted of violating this section shall
25 be fined \$250 or shall be ordered by the court to perform community
26 service for a period of 10 days in such form and on such terms as the
27 court shall deem appropriate under the circumstances.

28

29 7. This act shall take effect immediately, except that sections 1, 2
30 and 3 of this act shall take effect on September 30, 2000 and shall
31 apply to a conviction of a violation of R.S.39:4-50 committed on or
32 after this date. The Director of the Division of Motor Vehicles may
33 take such anticipatory administrative and regulatory action in advance
34 as shall be necessary to implement the provisions of this act.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1475
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 12, 2000

SUMMARY

- Synopsis:** Requires ignition interlock device or registration revocation for repeat drunk driving; prohibits possession of unsealed alcoholic beverage in motor vehicle.
- Type of Impact:** Potential increase in operating expenses to administer court imposed penalties on drivers convicted of drunk driving offenses.
- Agencies Affected:** Department of Transportation; Judiciary

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	Unknown	Unknown	Unknown
State Revenue	Unknown	Unknown	Unknown

- ! Bill conforms State law regarding drunk driving offenses with federal requirements.
- ! Requires that persons convicted of repeat drunk driving offenses have ignition interlock device installed on their motor vehicle or have their registration privileges revoked.
- ! Before restoring individual's driver license which has been revoked because of drunk driving offense, ignition interlock device must be installed on individual's motor vehicle.
- ! Prohibits possession of open or unsealed alcoholic beverage container in passenger area of motor vehicles located on public highways; however, passengers using a charter bus or limousine service would be exempted. Persons convicted of violating this prohibition would be fined \$200 for a first offense; subsequent convictions would require a fine of \$250 or 10 days of community service.

BILL DESCRIPTION

Senate Bill No. 1475 of 2000 is intended to bring the State's laws regarding drunk driving offenses into compliance with federal requirements. As part of this compliance, persons convicted of repeat drunk driving offenses would be required to have an ignition interlock device installed on their motor vehicle or have their registration privileges revoked. In addition, an

individual whose driver's license was revoked because of a drunk driving conviction would be required to have an ignition interlock device installed on the individual's motor vehicle before the driver's license can be restored.

The bill also prohibits possession of an open or unsealed alcoholic beverage container in the passenger area of a motor vehicle located on public highways; however, this restriction would not apply to passengers using a charter bus or limousine service. Persons convicted of violating this restriction would be fined \$200 for a first offense; subsequent convictions would require a fine of \$250 or 10 days of community service.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) notes that this bill is required to conform State law with federal requirements. However, OLS has informally discussed the fiscal impact of this bill with the Department of Transportation (DOT). Although the department administers the current provisions regarding persons convicted of drunk driving, the certification and audit of persons installing ignition interlock devices, and the approval of such devices would be new responsibilities. While it is estimated that there are about 23,000 drunk driving convictions each year, of which 20 to 25 percent are repeat offenders, the DOT could not estimate the number of ignition interlock devices that the court would require to be installed. Until actual experience is gained with the implementation of the new restrictions, DOT could not estimate if the additional responsibilities could be absorbed within the existing work force or if additional personnel would be needed.

Regarding the fines imposed for possessing open or unsealed beverage containers in passenger areas of motor vehicles, there is no estimate of State revenues.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Rusty Lachenauer*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

PL. 2000, CHAPTER 83, *approved August 14, 2000*
Senate, No. 1475 (*Second Reprint*)

1 **AN ACT** concerning drunk driving, amending R.S.39:4-50, P.L.1995,
2 c.286, P.L.1999, c.417 and R.S.33:1-1, and supplementing chapter
3 4 of Title 39 of the Revised Statutes.

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 drug,
12 or operates a motor vehicle with a blood alcohol concentration of
13 0.10% or more by weight of alcohol in the defendant's blood or
14 permits another person who is under the influence of intoxicating
15 liquor, narcotic, hallucinogenic or habit-producing drug to operate a
16 motor vehicle owned by him or in his custody or control or permits
17 another to operate a motor vehicle with a blood alcohol concentration
18 of 0.10% or more by weight of alcohol in the defendant's blood, shall
19 be subject:

20 (1) For the first offense, to a fine of not less than \$250.00 nor
21 more than \$400.00 and a period of detainment of not less than
22 12 hours nor more than 48 hours spent during two consecutive days
23 of not less than six hours each day and served as prescribed by the
24 program requirements of the Intoxicated Driver Resource Centers
25 established under subsection (f) of this section and, in the discretion
26 of the court, a term of imprisonment of not more than 30 days and
27 shall forthwith forfeit his right to operate a motor vehicle over the
28 highways of this State for a period of not less than six months nor
29 more than one year. For a first offense, a person also shall be subject
30 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

31 (2) For a second violation, a person shall be subject to a fine of not
32 less than \$500.00 nor more than \$1,000.00, and shall be ordered by
33 the court to perform community service for a period of 30 days, which
34 shall be of such form and on such terms as the court shall deem
35 appropriate under the circumstances, and shall be sentenced to
36 imprisonment for a term of not less than 48 consecutive hours, which
37 shall not be suspended or served on probation, nor more than 90 days,

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 26, 2000.

² Assembly floor amendments adopted June 29, 2000.

1 and shall forfeit his right to operate a motor vehicle over the highways
2 of this State for a period of two years upon conviction, and, after the
3 expiration of said period, he may make application to the Director of
4 the Division of Motor Vehicles for a license to operate a motor
5 vehicle, which application may be granted at the discretion of the
6 director, consistent with subsection (b) of this section. For a second
7 violation, a person also shall be required to install an ignition interlock
8 device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)
9 or shall have his registration certificate and registration plates revoked
10 for two years under the provisions of section 2 of P.L.1995, c.286
11 (C.39:3-40.1).

12 (3) For a third or subsequent violation, a person shall be subject to
13 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term
14 of not less than 180 days, except that the court may lower such term
15 for each day, not exceeding 90 days, served performing community
16 service in such form and on such terms as the court shall deem
17 appropriate under the circumstances and shall thereafter forfeit his
18 right to operate a motor vehicle over the highways of this State for 10
19 years. For a third or subsequent violation, a person also shall be
20 required to install an ignition interlock device under the provisions of
21 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration
22 certificate and registration plates revoked for 10 years under the
23 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

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

38 If the driving privilege of any person is under revocation or
39 suspension for a violation of any provision of this Title or Title 2C of
40 the New Jersey Statutes at the time of any conviction for a violation
41 of this section, the revocation or suspension period imposed shall
42 commence as of the date of termination of the existing revocation or
43 suspension period. In the case of any person who at the time of the
44 imposition of sentence is less than 17 years of age, the forfeiture,
45 suspension or revocation of the driving privilege imposed by the court
46 under this section shall commence immediately, run through the

1 offender's seventeenth birthday and continue from that date for the
2 period set by the court pursuant to paragraphs (1) through (3) of this
3 subsection. A court that imposes a term of imprisonment under this
4 section may sentence the person so convicted to the county jail, to the
5 workhouse of the county wherein the offense was committed, to an
6 inpatient rehabilitation program or to an Intoxicated Driver Resource
7 Center or other facility approved by the chief of the Intoxicated
8 Driving Program Unit in the Department of Health and Senior
9 Services; provided that for a third or subsequent offense a person shall
10 not serve a term of imprisonment at an Intoxicated Driver Resource
11 Center as provided in subsection (f).

12 A person who has been convicted of a previous violation of this
13 section need not be charged as a second or subsequent offender in the
14 complaint made against him in order to render him liable to the
15 punishment imposed by this section on a second or subsequent
16 offender, but if the second offense occurs more than 10 years after the
17 first offense, the court shall treat the second conviction as a first
18 offense for sentencing purposes and if a third offense occurs more than
19 10 years after the second offense, the court shall treat the third
20 conviction as a second offense for sentencing purposes.

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

39 (c) Upon conviction of a violation of this section, the court shall
40 collect forthwith the New Jersey driver's license or licenses of the
41 person so convicted and forward such license or licenses to the
42 Director of the Division of Motor Vehicles. The court shall inform the
43 person convicted that if he is convicted of personally operating a
44 motor vehicle during the period of license suspension imposed
45 pursuant to subsection (a) of this section, he shall, upon conviction, be
46 subject to the penalties established in R.S.39:3-40. The person

1 convicted shall be informed orally and in writing. A person shall be
2 required to acknowledge receipt of that written notice in writing.
3 Failure to receive a written notice or failure to acknowledge in writing
4 the receipt of a written notice shall not be a defense to a subsequent
5 charge of a violation of R.S.39:3-40. In the event that a person
6 convicted under this section is the holder of any out-of-State driver's
7 license, the court shall not collect the license but shall notify forthwith
8 the director, who shall, in turn, notify appropriate officials in the
9 licensing jurisdiction. The court shall, however, revoke the
10 nonresident's driving privilege to operate a motor vehicle in this State,
11 in accordance with this section. Upon conviction of a violation of this
12 section, the court shall notify the person convicted, orally and in
13 writing, of the penalties for a second, third or subsequent violation of
14 this section. A person shall be required to acknowledge receipt of that
15 written notice in writing. Failure to receive a written notice or failure
16 to acknowledge in writing the receipt of a written notice shall not be
17 a defense to a subsequent charge of a violation of this section.

18 (d) The Director of the Division of Motor Vehicles shall
19 promulgate rules and regulations pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to
21 establish a program of alcohol education and highway safety, as
22 prescribed by this act.

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

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

1 from developing their own education and treatment programs;
2 provided that they are approved by the Division of Alcoholism and
3 Drug Abuse.

4 Upon a person's failure to report to the initial screening or any
5 subsequent ordered referral, the Intoxicated Driver Resource Center
6 shall promptly notify the sentencing court of the person's failure to
7 comply.

8 Required detention periods at the Intoxicated Driver Resource
9 Centers shall be determined according to the individual treatment
10 classification assigned by the Intoxicated Driving Program Unit. Upon
11 attendance at an Intoxicated Driver Resource Center, a person shall be
12 required to pay a per diem fee of \$75.00 for the first offender program
13 or a per diem fee of \$100.00 for the second offender program, as
14 appropriate. Any increases in the per diem fees after the first full year
15 shall be determined pursuant to rules and regulations adopted by the
16 Commissioner of Health and Senior Services in consultation with the
17 Governor's Council on Alcoholism and Drug Abuse pursuant to the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.).

20 The centers shall conduct a program of alcohol and drug education
21 and highway safety, as prescribed by the Director of the Division of
22 Motor Vehicles.

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

27 (g) When a violation of this 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 school
33 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, the
37 convicted person shall: for a first offense, be fined not less than \$500
38 or more than \$800, be imprisoned for not more than 60 days and have
39 his license to operate a motor vehicle suspended for a period of not
40 less than one year or more than two years; for a second offense, be
41 fined not less than \$1,000 or more than \$2,000, perform community
42 service for a period of 60 days, be imprisoned for not less than
43 96 consecutive hours, which shall not be suspended or served on
44 probation, nor more than 180 days, except that the court may lower
45 such term for each day, not exceeding 90 days, served performing
46 community service in such form and on such terms as the court shall

1 deem appropriate under the circumstances and have his license to
2 operate a motor vehicle suspended for a period of not less than four
3 years; and, for a third offense, be fined \$2,000, imprisoned for
4 180 days and have his license to operate a motor vehicle suspended for
5 a period of 20 years; the period of license suspension shall commence
6 upon the completion of any prison sentence imposed upon that person.

7 A map or true copy of a map depicting the location and boundaries
8 of the area on or within 1,000 feet of any property used for school
9 purposes which is owned by or leased to any elementary or secondary
10 school or school board produced pursuant to section 1 of P.L.1987,
11 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)
12 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 unaware
15 that the prohibited conduct took place while on or within 1,000 feet
16 of any school property or while driving through a school crossing.
17 Nor shall it be relevant to the imposition of sentence that no juveniles
18 were present on the school property or crossing zone at the time of the
19 offense or that the school was not in session.

20 [(h) In addition to any penalty or condition imposed by law or
21 regulation, a person who is subject to the provisions of this section
22 shall also be subject to the provisions of P.L.1999, c.417
23 (C.39:4-50.16 et al.).]

24 (cf: P.L.1999, c.417, s.7)

25

26 2. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read
27 as follows:

28 2. a. [The] Any motor vehicle registration certificate and
29 registration plates [of any] shall be revoked if a person [who] is
30 convicted of violating the provisions of:

31 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
32 during a period when that violator's driver's license has been
33 suspended for a violation of R.S.39:4-50 [or];

34 (2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle
35 during a period when that violator's driver's license has been
36 suspended within a five-year period [shall be revoked]; or

37 (3) R.S.39:4-50 for a second or subsequent offense, if such
38 revocation is ordered by the court as authorized under that section.

39 This revocation of registration certificate and registration plates
40 shall apply to all passenger automobiles and motorcycles owned or
41 leased by the violator and registered under the provisions of
42 R.S.39:3-4 and all noncommercial trucks owned or leased by the
43 violator and registered under the provisions of section 2 of P.L.1968,
44 c.439 (C.39:3-8.1), including those passenger automobiles,
45 motorcycles and noncommercial trucks registered or leased jointly in
46 the name of the violator and the other owner of record.

1 b. At the time of conviction, the court shall notify each violator
2 that the person's passenger automobile, motorcycle, and
3 noncommercial truck registrations are revoked. Notwithstanding the
4 provisions of R.S.39:5-35, the violator shall surrender the registration
5 certificate and registration plates of all passenger automobiles,
6 motorcycles, and noncommercial truck registrations subject to
7 revocation under the provisions of this section within 48 hours of the
8 court's notice. The surrender shall be at a place and in a manner
9 prescribed by the Director of the Division of Motor Vehicles pursuant
10 to rule and regulation. The court also shall notify the violator that a
11 failure to surrender that vehicle registration certificate and registration
12 plates shall result in the impoundment of the vehicle in accordance
13 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
14 the seizure of said registration certificate and registration plates. The
15 revocation authorized under the provisions of this subsection shall
16 remain in effect for the period during which the violator's license to
17 operate a motor vehicle is suspended and shall be enforced so as to
18 prohibit the violator from registering or leasing any other vehicle,
19 however acquired, during that period.

20 c. If the violator subject to the penalties set forth in subsections a.
21 and b. of this section for conviction of violating the provisions of
22 R.S.39:3-40 was operating a motor vehicle owned or leased by
23 another person and that other owner or lessee permitted [said] that
24 operation with knowledge that the violator's driver's license was
25 suspended, the court shall suspend the person's license to operate a
26 motor vehicle and revoke the registration certificate and registration
27 plates for that vehicle for a period of not more than six months.
28 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee
29 shall surrender the registration certificate and registration plates of
30 that vehicle within 48 hours of the court's notice of revocation. The
31 surrender shall be at a place and in a manner prescribed by the
32 Director of the Division of Motor Vehicles pursuant to rule and
33 regulation. The court also shall notify the owner or lessee that a
34 failure to surrender the revoked registration certificate and registration
35 plates shall result in the impoundment of the vehicle in accordance
36 with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and
37 the seizure of said registration certificate and registration plates.
38 Nothing in this subsection shall be construed to limit the court from
39 finding that owner or lessee guilty of violating R.S.39:3-39 or any
40 other such statute concerning the operation of a motor vehicle by an
41 unlicensed driver.

42 (cf: P.L.1995, c.286, s.2)

43

44 3. Section 3 of P.L.1995, c.286 (C.39:3-40.2) is amended to read
45 as follows:

46 3. a. The director may issue a temporary registration certificate

1 and temporary registration plates for a motor vehicle for which the
2 registration certificate and registration plates have been revoked under
3 the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1) if:

4 (1) the name of the applicant for the temporary registration
5 appeared upon the revoked registration certificate as a joint owner or
6 joint lessee of the motor vehicle; or

7 (2) the applicant for the temporary registration is the spouse, child,
8 dependent, parent or legal guardian of the violator or owner and
9 certifies, in a manner prescribed by the director, that the operation of
10 the motor vehicle is necessary for specified employment, educational,
11 health or medical purposes.

12 The application shall be in a manner and form prescribed by the
13 director. The application also shall include a signed certification that
14 the applicant shall not knowingly permit the violator to operate the
15 motor vehicle until the violator's license and driving privileges have
16 been restored by the director and that any violation of this provision
17 shall result in the revocation of the temporary registration issued for
18 the motor vehicle under the provisions of this section, that the motor
19 vehicle shall be ineligible for the temporary registration authorized
20 under this act, and that the motor vehicle may be impounded in
21 accordance with the provisions of section 4 of P.L.1995, c.286
22 (C.39:3-40.3) and the temporary registration certificate and temporary
23 registration plates seized.

24 b. The director shall issue a temporary registration certificate and
25 temporary registration plates for a motor vehicle registered under the
26 provisions of this section. As prescribed by the director, the
27 temporary registration plates shall bear a special series of numbers or
28 letters so as to be readily identifiable by law enforcement officers.

29 c. The director may issue a new registration to a lessor of a vehicle
30 for which the registration has been revoked pursuant to section 2 of
31 P.L.1995, c.286 (C.39:3-40.1) provided that the vehicle is not leased
32 to the same lessee.

33 d. The temporary registration authorized under this section shall
34 expire and become void on the last day of the sixth month following
35 the calendar month in which it was issued. All such temporary
36 registrations may be renewed, upon application, by the director.

37 The fee schedule for the temporary registration authorized under
38 this section shall be prescribed by the director. The schedule may
39 provide for differing fees based upon the manufacturer's shipping
40 weight and the model year of the motor vehicle; provided, however,
41 that no such temporary registration fee shall exceed \$75. The
42 registrant also shall pay a non-recurring \$25 fee for the temporary
43 registration plates issued by the director.

44 (cf: P.L.1995, c.286, s.3)

1 4. Section 8 of P.L.1999, c.417 is amended to read as follows:

2 8. The provisions of this act shall take effect [upon the
3 implementation of P.L.1999, c.28] on January 1, 2001, but shall apply
4 to convictions for violations of R.S.39:4-50 committed on or after
5 September 30, 2000.

6 (cf: P.L.1999, c.417, s.8)

7

8 5. R.S.33:1-1 is amended to read as follows:

9 33:1-1. For the purpose of this chapter, the following words and
10 terms shall be deemed to have the meanings herein given to them:

11 a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral
12 spirits from whatever source or by whatever process produced.

13 b. "Alcoholic beverage." Any fluid or solid capable of being
14 converted into a fluid, suitable for human consumption, and having an
15 alcohol content of more than one-half of one per centum (1/2 of 1%)
16 by volume, including alcohol, beer, lager beer, ale, porter, naturally
17 fermented wine, treated wine, blended wine, fortified wine, sparkling
18 wine, distilled liquors, blended distilled liquors and any brewed,
19 fermented or distilled liquors fit for use for beverage purposes or any
20 mixture of the same, and fruit juices.

21 c. "Building." A structure of which licensed premises are or may
22 be a part, including all rooms, cellars, outbuildings, passageways,
23 closets, vaults, yards, attics, and every part of the structure of which
24 the licensed premises are a part, and of any other structure to which
25 there is a common means of access, and any other appurtenances.

26 d. "Commissioner." The Director of the Division of Alcoholic
27 Beverage Control.

28 e. "Container." Any glass, can, bottle, vessel or receptacle of any
29 material whatsoever used for holding alcoholic beverages, which
30 container is covered, corked or sealed in any manner whatsoever.

31 f. "Eligible." The status of a person who is a citizen of the United
32 States, a resident of this State, of good moral character and repute,
33 and of legal age.

34 g. "Governing board or body." The board or body which governs
35 a municipality, including a board of aldermen in municipalities so
36 governed; but in every municipality having a board of public works
37 which exercises general licensing powers such board shall be
38 considered as the governing board or body.

39 h. "Importing." The act of bringing or causing to be brought any
40 alcoholic beverage into this State.

41 i. "Illicit beverage." Any alcoholic beverage manufactured,
42 distributed, bought, sold, bottled, rectified, blended, treated, fortified,
43 mixed, processed, warehoused, possessed or transported in violation
44 of this chapter, or on which any federal tax or tax imposed by the laws
45 of this State has not been paid; and any alcoholic beverage possessed,
46 kept, stored, owned or imported with intent to manufacture, sell,

- 1 distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse
2 or transport in violation of the provisions of this chapter.
- 3 j. "Licensed building." Any building containing licensed premises.
- 4 k. "Licensed premises." Any premises for which a license under this
5 chapter is in force and effect.
- 6 l. "Magistrate." The Superior Court or municipal court.
- 7 m. "Manufacturer." Any person who, directly or indirectly,
8 personally or through any agency whatsoever, engages in the making
9 or other processing whatsoever of alcoholic beverages.
- 10 n. "Municipality." Any city, town, township, village, or borough,
11 including a municipality governed by a board of commissioners or
12 improvement commission, but excluding a county.
- 13 o. "Municipal board." The municipal board of alcoholic beverage
14 control as established by this chapter.
- 15 p. "Officer." Any sheriff, deputy sheriff, constable, police officer,
16 member of the Division of State Police, or any other person having the
17 power to execute a warrant for arrest, or any inspector or investigator
18 of the Division of Alcoholic Beverage Control.
- 19 q. "Original container." Any container in which an alcoholic
20 beverage has been delivered to a retail licensee.
- 21 r. "Person." Any natural person or association of natural persons,
22 association, trust company, partnership, corporation, organization, or
23 the manager, agent, servant, officer, or employee of any of them.
- 24 s. "Premises." The physical place at which a licensee is or may be
25 licensed to conduct and carry on the manufacture, distribution or sale
26 of alcoholic beverages, but not including vehicular transportation.
- 27 t. "Restaurant." An establishment regularly and principally used for
28 the purpose of providing meals to the public, having an adequate
29 kitchen and dining room equipped for the preparing, cooking and
30 serving of food for its customers and in which no other business,
31 except such as is incidental to such establishment, is conducted.
- 32 u. "Retailer." Any person who sells alcoholic beverages to
33 consumers.
- 34 v. "Rules and regulations." The rules and regulations established
35 from time to time by the director.
- 36 w. "Sale." Every delivery of an alcoholic beverage otherwise than
37 by purely gratuitous title, including deliveries from without this State
38 and deliveries by any person without this State intended for shipment
39 by carrier or otherwise into this State and brought within this State, or
40 the solicitation or acceptance of an order for an alcoholic beverage,
41 and including exchange, barter, traffic in, keeping and exposing for
42 sale, serving with meals, delivering for value, peddling, possessing
43 with intent to sell, and the gratuitous delivery or gift of any alcoholic
44 beverage by any licensee.
- 45 x. "Unlawful alcoholic beverage activity." The manufacture, sale,
46 distribution, bottling, rectifying, blending, treating, fortifying, mixing,

1 processing, warehousing or transportation of any alcoholic beverage
2 in violation of this chapter, or the importing, owning, possessing,
3 keeping or storing in this State of alcoholic beverages with intent to
4 manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix,
5 process, warehouse or transport alcoholic beverages in violation of
6 this chapter, or the owning, possessing, keeping or storing in this State
7 of any implement or paraphernalia for the manufacture, sale,
8 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
9 processing, warehousing or transportation of alcoholic beverages with
10 intent to use the same in the manufacture, sale, distribution, bottling,
11 rectifying, blending, treating, fortifying, mixing, processing,
12 warehousing or transportation of alcoholic beverages in violation of
13 this chapter, or to aid or abet another in the manufacture, sale,
14 distribution, bottling, rectifying, blending, treating, fortifying, mixing,
15 processing, warehousing or transportation of alcoholic beverages in
16 violation of this chapter, or the aiding or abetting of another in any of
17 the foregoing activities.

18 y. "Unlawful property." All illicit beverages and all implements,
19 vehicles, vessels, airplanes, and paraphernalia for the manufacture,
20 sale, distribution, bottling, rectifying, blending, treating, fortifying,
21 mixing, processing, warehousing or transportation of illicit beverages
22 used in the manufacture, sale, distribution, bottling, rectifying,
23 blending, treating, fortifying, mixing, processing, warehousing or
24 transportation of illicit beverages or owned, possessed, kept or stored
25 with intent to use the same in the manufacture, sale, distribution,
26 bottling, rectifying, blending, treating, fortifying, mixing, processing,
27 warehousing or transportation of illicit beverages, whether such use be
28 by the person owning, possessing, keeping, or storing the same, or by
29 another with the consent of such person; and all alcoholic beverages,
30 fixtures and personal property located in or upon any premises,
31 building, yard or inclosure connected with a building, in which an illicit
32 beverage is found, possessed, stored or kept.

33 z. "Wholesaler." Any person who sells an alcoholic beverage for
34 the purpose of resale either to a licensed wholesaler or to a licensed
35 retailer, or both.

36 aa. "Limousine." A motor vehicle used in the business of carrying
37 passengers for hire to provide prearranged passenger transportation at
38 a premium fare on a dedicated, nonscheduled, charter basis that is not
39 conducted on a regular route, or is furnished without fare as an
40 accommodation for a patron in connection with other business
41 purposes, and with a seating capacity in no event of more than
42 14 passengers, not including the driver, provided, that such a motor
43 vehicle shall not have a seating capacity in excess of four passengers,
44 not including the driver, beyond the maximum passenger seating
45 capacity of the vehicle, not including the driver, at the time of
46 manufacture. This shall not include taxicabs, hotel or airport shuttles

1 and buses, or buses employed solely in transporting schoolchildren or
2 teachers to and from school, or vehicles owned and operated without
3 charge or remuneration by a business entity for its own purposes.

4 bb. "Entertainment facility" is a privately-owned facility in which
5 athletic, commercial, cultural, or artistic events are featured.

6 Any definition herein contained shall apply to the same word in any
7 form. Thus "sell" means to make a "sale" as above defined.

8 (cf: P.L.1999, c.356, s.1)

9
10 6. (New section) a. All occupants of a motor vehicle located on
11 a public highway, or the right-of-way of a public highway, shall be
12 prohibited from possessing any open or unsealed alcoholic beverage
13 container. This subsection shall not apply to a passenger of a charter
14 or special bus operated as defined under R.S.48:4-1 or a limousine
15 service.

16 b. A person shall not be deemed to be in possession of an opened
17 or unsealed alcoholic beverage container pursuant to this section if
18 such container is located in the trunk of a motor vehicle, behind the
19 last upright seat in a trunkless vehicle, or in the living quarters of a
20 motor home or house trailer. For the purposes of this section, the
21 term "open or ¹[unsealed]" ~~unsealed alcoholic beverage~~
22 container"¹ unsealed"² shall mean a container with its original seal
23 broken or a container such as a glass or cup ²[¹, but shall not include
24 a container that has been recorked or recapped¹]².

25 c. For a first offense, a person convicted of violating this section
26 shall be fined \$200 and shall be informed by the court of the penalties
27 for a second or subsequent violation of this section. For a second or
28 subsequent offense, a person convicted of violating this section shall
29 be fined \$250 or shall be ordered by the court to perform community
30 service for a period of 10 days in such form and on such terms as the
31 court shall deem appropriate under the circumstances.

32
33 7. This act shall take effect immediately, except that sections 1, 2
34 and 3 of this act shall take effect on September 30, 2000 and shall
35 apply to a conviction of a violation of R.S.39:4-50 committed on or
36 after this date. The Director of the Division of Motor Vehicles may
37 take such anticipatory administrative and regulatory action in advance
38 as shall be necessary to implement the provisions of this act.

39
40
41
42
43 Requires ignition interlock device or registration revocation for repeat
44 drunk driving; prohibits possession of unsealed alcoholic beverage in
45 motor vehicle.

CHAPTER 83

AN ACT concerning drunk driving, amending R.S.39:4-50, P.L.1995, c.286, P.L.1999, c.417 and R.S.33:1-1, and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

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

Driving while intoxicated.

39:4-50. (a) Except as provided in subsection (g) of this section, a person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.10% or more by weight of alcohol in the defendant's blood, shall be subject:

(1) For the first offense, to a fine of not less than \$250.00 nor more than \$400.00 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year. For a first offense, a person also shall be subject to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

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

(3) For a third or subsequent violation, a person shall be subject to a fine of \$1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and shall thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years. For a third or subsequent violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and registration plates revoked for 10 years under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

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

If the driving privilege of any person is under revocation or suspension for a violation of any

provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this subsection. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Department of Health and Senior Services; provided that for a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

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

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

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a person convicted under this section is the holder of any out-of-State driver's license, the court shall not collect the license but shall notify forthwith the director, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of this section.

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

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

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

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

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Intoxicated Driving Program Unit. Upon attendance at an Intoxicated Driver Resource Center, a person shall be required to pay a per diem fee of \$75.00 for the first offender program or a per diem fee of \$100.00 for the second offender program, as appropriate. Any increases in the per diem fees after the first full year shall be determined pursuant to rules and regulations adopted by the Commissioner of Health and Senior Services in consultation with the Governor's Council on Alcoholism and Drug Abuse pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The centers shall conduct a program of alcohol and drug education and highway safety, as prescribed by the Director of the Division of Motor Vehicles.

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

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

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

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

(3) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution, the convicted person shall: for a first offense, be fined not less than \$500 or more than \$800, be imprisoned for not more than 60 days and have his license to operate a motor vehicle suspended for a period of not less than one year or more than two years; for a second offense, be fined not less than \$1,000 or more than \$2,000, perform community service for a period of 60 days, be imprisoned for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and have his license to operate a motor vehicle suspended for a period of not less than four years; and, for a third offense, be fined \$2,000, imprisoned for 180 days and have his license to operate a motor vehicle suspended for a period of 20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.

A map or true copy of a map depicting the location and boundaries of the area on or within

1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1) of this subsection.

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

2. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to read as follows:

C.39:3-40.1 Revocation of registration certificate, plates.

2. a. Any motor vehicle registration certificate and registration plates shall be revoked if a person is convicted of violating the provisions of:

(1) subsection a. of R.S.39:3-40 for operating a motor vehicle during a period when that violator's driver's license has been suspended for a violation of R.S.39:4-50;

(2) subsection b. or c. of R.S.39:3-40 for operating a motor vehicle during a period when that violator's driver's license has been suspended within a five-year period; or

(3) R.S.39:4-50 for a second or subsequent offense, if such revocation is ordered by the court as authorized under that section.

This revocation of registration certificate and registration plates shall apply to all passenger automobiles and motorcycles owned or leased by the violator and registered under the provisions of R.S.39:3-4 and all noncommercial trucks owned or leased by the violator and registered under the provisions of section 2 of P.L.1968, c.439 (C.39:3-8.1), including those passenger automobiles, motorcycles and noncommercial trucks registered or leased jointly in the name of the violator and the other owner of record.

b. At the time of conviction, the court shall notify each violator that the person's passenger automobile, motorcycle, and noncommercial truck registrations are revoked. Notwithstanding the provisions of R.S.39:5-35, the violator shall surrender the registration certificate and registration plates of all passenger automobiles, motorcycles, and noncommercial truck registrations subject to revocation under the provisions of this section within 48 hours of the court's notice. The surrender shall be at a place and in a manner prescribed by the Director of the Division of Motor Vehicles pursuant to rule and regulation. The court also shall notify the violator that a failure to surrender that vehicle registration certificate and registration plates shall result in the impoundment of the vehicle in accordance with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said registration certificate and registration plates. The revocation authorized under the provisions of this subsection shall remain in effect for the period during which the violator's license to operate a motor vehicle is suspended and shall be enforced so as to prohibit the violator from registering or leasing any other vehicle, however acquired, during that period.

c. If the violator subject to the penalties set forth in subsections a. and b. of this section for conviction of violating the provisions of R.S.39:3-40 was operating a motor vehicle owned or leased by another person and that other owner or lessee permitted that operation with knowledge that the violator's driver's license was suspended, the court shall suspend the person's license to operate a motor vehicle and revoke the registration certificate and registration plates for that vehicle for a period of not more than six months. Notwithstanding the provisions of R.S.39:3-35, the owner or lessee shall surrender the registration certificate and registration plates of that vehicle within 48 hours of the court's notice of revocation. The surrender shall be at a place and in a manner prescribed by the Director of the Division of Motor Vehicles pursuant to rule and regulation. The court also shall notify the owner or lessee that a failure to surrender the revoked registration certificate and registration plates shall result in the impoundment of the vehicle in accordance with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and the seizure of said registration certificate and registration plates. Nothing in this subsection shall be construed to limit the court from finding that owner or lessee guilty of violating R.S.39:3-39 or any other such statute concerning the operation of a motor vehicle by an unlicensed driver.

3. Section 3 of P.L.1995, c.286 (C.39:3-40.2) is amended to read as follows:

C.39:3-40.2 Issuance of temporary registration certificate, plates.

3. a. The director may issue a temporary registration certificate and temporary registration plates for a motor vehicle for which the registration certificate and registration plates have been revoked under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1) if:

(1) the name of the applicant for the temporary registration appeared upon the revoked registration certificate as a joint owner or joint lessee of the motor vehicle; or

(2) the applicant for the temporary registration is the spouse, child, dependent, parent or legal guardian of the violator or owner and certifies, in a manner prescribed by the director, that the operation of the motor vehicle is necessary for specified employment, educational, health or medical purposes.

The application shall be in a manner and form prescribed by the director. The application also shall include a signed certification that the applicant shall not knowingly permit the violator to operate the motor vehicle until the violator's license and driving privileges have been restored by the director and that any violation of this provision shall result in the revocation of the temporary registration issued for the motor vehicle under the provisions of this section, that the motor vehicle shall be ineligible for the temporary registration authorized under this act, and that the motor vehicle may be impounded in accordance with the provisions of section 4 of P.L.1995, c.286 (C.39:3-40.3) and the temporary registration certificate and temporary registration plates seized.

b. The director shall issue a temporary registration certificate and temporary registration plates for a motor vehicle registered under the provisions of this section. As prescribed by the director, the temporary registration plates shall bear a special series of numbers or letters so as to be readily identifiable by law enforcement officers.

c. The director may issue a new registration to a lessor of a vehicle for which the registration has been revoked pursuant to section 2 of P.L.1995, c.286 (C.39:3-40.1) provided that the vehicle is not leased to the same lessee.

d. The temporary registration authorized under this section shall expire and become void on the last day of the sixth month following the calendar month in which it was issued. All such temporary registrations may be renewed, upon application, by the director.

The fee schedule for the temporary registration authorized under this section shall be prescribed by the director. The schedule may provide for differing fees based upon the manufacturer's shipping weight and the model year of the motor vehicle; provided, however, that no such temporary registration fee shall exceed \$75. The registrant also shall pay a non-recurring \$25 fee for the temporary registration plates issued by the director.

4. Section 8 of P.L.1999, c.417 is amended to read as follows:

8. The provisions of this act shall take effect on January 1, 2001, but shall apply to convictions for violations of R.S.39:4-50 committed on or after September 30, 2000.

5. R.S.33:1-1 is amended to read as follows:

Definitions.

33:1-1. For the purpose of this chapter, the following words and terms shall be deemed to have the meanings herein given to them:

a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral spirits from whatever source or by whatever process produced.

b. "Alcoholic beverage." Any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcohol content of more than one-half of one per centum (1/2 of 1%) by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of the same, and fruit juices.

- c. "Building." A structure of which licensed premises are or may be a part, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics, and every part of the structure of which the licensed premises are a part, and of any other structure to which there is a common means of access, and any other appurtenances.
- d. "Commissioner." The Director of the Division of Alcoholic Beverage Control.
- e. "Container." Any glass, can, bottle, vessel or receptacle of any material whatsoever used for holding alcoholic beverages, which container is covered, corked or sealed in any manner whatsoever.
- f. "Eligible." The status of a person who is a citizen of the United States, a resident of this State, of good moral character and repute, and of legal age.
- g. "Governing board or body." The board or body which governs a municipality, including a board of aldermen in municipalities so governed; but in every municipality having a board of public works which exercises general licensing powers such board shall be considered as the governing board or body.
- h. "Importing." The act of bringing or causing to be brought any alcoholic beverage into this State.
- i. "Illicit beverage." Any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of this chapter, or on which any federal tax or tax imposed by the laws of this State has not been paid; and any alcoholic beverage possessed, kept, stored, owned or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport in violation of the provisions of this chapter.
- j. "Licensed building." Any building containing licensed premises.
- k. "Licensed premises." Any premises for which a license under this chapter is in force and effect.
- l. "Magistrate." The Superior Court or municipal court.
- m. "Manufacturer." Any person who, directly or indirectly, personally or through any agency whatsoever, engages in the making or other processing whatsoever of alcoholic beverages.
- n. "Municipality." Any city, town, township, village, or borough, including a municipality governed by a board of commissioners or improvement commission, but excluding a county.
- o. "Municipal board." The municipal board of alcoholic beverage control as established by this chapter.
- p. "Officer." Any sheriff, deputy sheriff, constable, police officer, member of the Division of State Police, or any other person having the power to execute a warrant for arrest, or any inspector or investigator of the Division of Alcoholic Beverage Control.
- q. "Original container." Any container in which an alcoholic beverage has been delivered to a retail licensee.
- r. "Person." Any natural person or association of natural persons, association, trust company, partnership, corporation, organization, or the manager, agent, servant, officer, or employee of any of them.
- s. "Premises." The physical place at which a licensee is or may be licensed to conduct and carry on the manufacture, distribution or sale of alcoholic beverages, but not including vehicular transportation.
- t. "Restaurant." An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted.
- u. "Retailer." Any person who sells alcoholic beverages to consumers.
- v. "Rules and regulations." The rules and regulations established from time to time by the director.
- w. "Sale." Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling,

possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any licensee.

x. "Unlawful alcoholic beverage activity." The manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of any alcoholic beverage in violation of this chapter, or the importing, owning, possessing, keeping or storing in this State of alcoholic beverages with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport alcoholic beverages in violation of this chapter, or the owning, possessing, keeping or storing in this State of any implement or paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or to aid or abet another in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or the aiding or abetting of another in any of the foregoing activities.

y. "Unlawful property." All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept.

z. "Wholesaler." Any person who sells an alcoholic beverage for the purpose of resale either to a licensed wholesaler or to a licensed retailer, or both.

aa. "Limousine." A motor vehicle used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route, or is furnished without fare as an accommodation for a patron in connection with other business purposes, and with a seating capacity in no event of more than 14 passengers, not including the driver, provided, that such a motor vehicle shall not have a seating capacity in excess of four passengers, not including the driver, beyond the maximum passenger seating capacity of the vehicle, not including the driver, at the time of manufacture. This shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting schoolchildren or teachers to and from school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

bb. "Entertainment facility" is a privately-owned facility in which athletic, commercial, cultural, or artistic events are featured.

Any definition herein contained shall apply to the same word in any form. Thus "sell" means to make a "sale" as above defined.

C.39:4-51b Prohibition of possession of open, unsealed alcoholic beverage container, circumstances.

6. a. All occupants of a motor vehicle located on a public highway, or the right-of-way of a public highway, shall be prohibited from possessing any open or unsealed alcoholic beverage container. This subsection shall not apply to a passenger of a charter or special bus operated as defined under R.S.48:4-1 or a limousine service.

b. A person shall not be deemed to be in possession of an opened or unsealed alcoholic beverage container pursuant to this section if such container is located in the trunk of a motor vehicle, behind the last upright seat in a trunkless vehicle, or in the living quarters of a motor home or house trailer. For the purposes of this section, the term "open or unsealed" shall mean

a container with its original seal broken or a container such as a glass or cup.

c. For a first offense, a person convicted of violating this section shall be fined \$200 and shall be informed by the court of the penalties for a second or subsequent violation of this section. For a second or subsequent offense, a person convicted of violating this section shall be fined \$250 or shall be ordered by the court to perform community service for a period of 10 days in such form and on such terms as the court shall deem appropriate under the circumstances.

7. This act shall take effect immediately, except that sections 1, 2 and 3 of this act shall take effect on September 30, 2000 and shall apply to a conviction of a violation of R.S.39:4-50 committed on or after this date. The Director of the Division of Motor Vehicles may take such anticipatory administrative and regulatory action in advance as shall be necessary to implement the provisions of this act.

Approved August 14, 2000.

Office of the Governor
NEWS RELEASE

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RELEASE: August 14, 2000

Governor Whitman Signs Bill to Prevent Drunk Driving

Gov. Christie Whitman today signed legislation that prohibits open or unsealed alcoholic beverage containers in passenger areas of motor vehicles and imposes ignition interlock device and registration restrictions on residents with repeat drunk driving offenses.

"Law enforcement's efforts to protect public safety along our streets and highways will benefit from these new measures," said Gov. Whitman. "Drivers under the influence of alcohol remain a concern to each one of us. We need to be vigilant in our pursuit of reducing their ability to cause harm on our roadways."

This bill also brings state law into compliance with the Federal Transportation Equity Act for the 21st Century, allowing the state Department of Transportation to maximize its federal highway construction funding.

S-1475, was sponsored by Senators John J. Matheussen (R-Camden/Gloucester) and Norman M. Robertson (R-Essex/Passaic) and Assemblymen Alex DeCroce (R-Essex/Morris/Passaic) and Francis L. Bodine (R-Atlantic/Burlington/Camden).

The measure prohibits open or unsealed containers in the passenger area of a motor vehicle. In order to ensure that individuals may legally transport open or unsealed containers when appropriate, the prohibition would not apply to the trunk or area behind the last upright seat of a trunkless vehicle, the living quarters of trailers or motor homes, or to passengers on charter buses or in limousines.

Current law prohibits consumption of alcoholic beverages in a motor vehicle, but not possession of an open container of alcohol. However, except under certain circumstances, the presence of an open container in a motor vehicle creates the presumption that the occupants have consumed alcoholic beverages while operating a motor vehicle.

The bill provides a fine of \$200 for a first offense, and a fine of \$250 along with 10 days of community service for all subsequent offenses.

The second important feature of the bill concerns penalties for repeat driving while intoxicated offenders. Under this measure, municipal courts would have the discretion to order the installation of an ignition interlock device or to suspend a repeat offender's registration and license plates, or both. The penalties would apply to all vehicles owned or leased by the offender.

Installation of the interlock device would be a condition of license restoration and would be required for one to three years. It is intended to

prevent past offenders from operating their motor vehicle after their license has been restored while under the influence of alcohol. The suspension of the repeat offender's registration and license would be concurrent with the suspension of that offender's driving privileges for the same offense. It is intended to reduce a repeat offender's legal access to a motor vehicle during the time of the suspension. Temporary registrations could be issued to other family members in appropriate circumstances.

The bill does not alter the substance of a recently signed law that already provides the courts with discretion to impose ignition interlock devices for a first or any subsequent offenses. However, the new measure moves up the effective date of that law to comply with federal law by applying the ignition interlock device penalty to offenses committed on or after September 30, 2000.