



**LEGISLATIVE FISCAL ESTIMATE:**

Yes

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

RWH/JA

§1 –  
C.39:4-50.16a  
§6 –  
C.39:4-50.17b  
§7 - Note

P.L. 2019, CHAPTER 248, *approved August 23, 2019*  
Senate Committee Substitute (*First Reprint*) for Senate Committee Substitute for  
Senate, No. 824

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

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

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

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

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

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

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

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly floor amendments adopted June 20, 2019.

1 e. Reportedly, ignition interlock devices have prevented more  
2 than 73,740 attempts to drive with a BAC over the legal limit of  
3 0.08 percent in this State over the past 11 years.

4 f. Numerous organizations support requiring the use of ignition  
5 interlock devices by all convicted drunk drivers, including all first-  
6 time offenders, including: Mothers Against Drunk Driving,  
7 Advocates for Auto and Highway Safety, American Automobile  
8 Association, American Trucking Association, Auto Alliance,  
9 Centers for Disease Control and Prevention, Foundation for  
10 Advancing Alcohol Responsibility, Insurance Institute for Highway  
11 Safety, International Association of Chiefs of Police, National  
12 Academy of Sciences, National Football League, National Safety  
13 Council, and National Transportation Safety Board.

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

17

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

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

31 (1) For the first offense:

32 (i) if the person's blood alcohol concentration is 0.08% or  
33 higher but less than 0.10%, or the person operates a motor vehicle  
34 while under the influence of intoxicating liquor, or the person  
35 permits another person who is under the influence of intoxicating  
36 liquor to operate a motor vehicle owned by him or in his custody or  
37 control or permits another person with a blood alcohol  
38 concentration of 0.08% or higher but less than 0.10% to operate a  
39 motor vehicle, to a fine of not less than \$250 nor more than \$400  
40 and a period of detainment of not less than 12 hours nor more than  
41 48 hours spent during two consecutive days of not less than six  
42 hours each day and served as prescribed by the program  
43 requirements of the Intoxicated Driver Resource Centers established  
44 under subsection (f) of this section and, in the discretion of the  
45 court, a term of imprisonment of not more than 30 days **【**and**】** . In  
46 addition, the court shall 【forthwith】 order the person to forfeit

1 **[his]** the right to operate a motor vehicle over the highways of this  
2 State **[for a period of three months]** until the person installs an  
3 ignition interlock device in one motor vehicle the person owns,  
4 leases, or principally operates, whichever the person most often  
5 operates, for the purpose of complying with the provisions of  
6 P.L.1999, c.417 (C.39:4-50.16 et al.);

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

21 in the case of a person who is convicted of operating a motor  
22 vehicle while under the influence of a narcotic, hallucinogenic or  
23 habit-producing drug or permitting another person who is under the  
24 influence of narcotic, hallucinogenic or habit-producing drug to  
25 operate a motor vehicle owned by the person or under the person's  
26 custody or control, the person shall **[forthwith]** forfeit **[his]** the  
27 right to operate a motor vehicle over the highways of this State for a  
28 period of not less than seven months nor more than one year;

29 in the case of a person whose blood alcohol concentration is  
30 0.10% or higher but less than 0.15%, the person shall forfeit the  
31 right to operate a motor vehicle over the highways of this State until  
32 the person installs an ignition interlock device in one motor vehicle  
33 the person owns, leases, or principally operates, whichever the  
34 person most often operates, for the purpose of complying with the  
35 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

36 in the case of a person whose blood alcohol concentration is  
37 0.15% or higher, the person shall forfeit the right to operate a motor  
38 vehicle over the highways of this State for a period of not less than  
39 four months or more than six months following installation of an  
40 ignition interlock device in one motor vehicle the person owns,  
41 leases, or principally operates, whichever the person most often  
42 operates, for the purpose of complying with the provisions of  
43 P.L.1999, c.417 (C.39:4-50.16 et al.);

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

1 (2) For a second violation, a person shall be subject to a fine of  
2 not less than \$500 nor more than \$1,000, and shall be ordered by  
3 the court to perform community service for a period of 30 days,  
4 which shall be of such form and on **[such]** terms **[as]** the court  
5 shall deem appropriate under the circumstances, and shall be  
6 sentenced to imprisonment for a term of not less than 48  
7 consecutive hours, which shall not be suspended or served on  
8 probation, **[nor]** or more than 90 days, and shall forfeit **[his]** the  
9 right to operate a motor vehicle over the highways of this State for a  
10 period of not less than one year or more than two years upon  
11 conviction**[, and after]**.

12 After the expiration of **[said]** the license forfeiture period, **[he]**  
13 the person may make application to the Chief Administrator of the  
14 New Jersey Motor Vehicle Commission for a license to operate a  
15 motor vehicle, which application may be granted at the discretion of  
16 the chief administrator, consistent with subsection (b) of this  
17 section. For a second violation, a person also shall be required to  
18 install an ignition interlock device under the provisions of P.L.1999,  
19 c.417 (C.39:4-50.16 et al.).

20 (3) For a third or subsequent violation, a person shall be subject  
21 to a fine of \$1,000, and shall be sentenced to imprisonment for a  
22 term of not less than 180 days in a county jail or workhouse, except  
23 that the court may lower such term for each day, not exceeding 90  
24 days, served participating in a drug or alcohol inpatient  
25 rehabilitation program approved by the Intoxicated Driver Resource  
26 Center and shall thereafter forfeit **[his]** the right to operate a motor  
27 vehicle over the highways of this State for **[10]** eight years.

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

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

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

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

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

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

46 (b) A person convicted under this section must satisfy the  
47 screening, evaluation, referral, program and fee requirements of the

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

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

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



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

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

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

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

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

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

5 (g) **W**hen a violation of this section occurs while:

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

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

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

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

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

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

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

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

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

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

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

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

1 pursuant to the program, any agents, employees, or independent  
2 contractors of the court, county, or facility visited pursuant to the  
3 program, and any person supervising a defendant during the  
4 visitation, are not liable for any civil damages resulting from injury  
5 to the defendant, or for civil damages associated with the visitation  
6 which are caused by the defendant, except for willful or grossly  
7 negligent acts intended to, or reasonably expected to result in, that  
8 injury or damage.

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

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

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

26

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

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

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

44 (2) if the refusal was in connection with a second offense under  
45 this section, 【in which case the revocation period shall be for two  
46 years or unless】. to forfeit the right to operate a motor vehicle over

1 the highways of this State for a period of not less than one year or  
2 more than two years following the installation of an ignition  
3 interlock device in one motor vehicle owned, leased, or principally  
4 operated by the person, whichever the person most often operates,  
5 for the purpose of complying with the provisions of P.L.1999, c.417  
6 (C.39:4-50.16 et al.);

7 (3) if the refusal was in connection with a third or subsequent  
8 offense under this section **【**in which case the revocation shall be for  
9 ten years**】**, to forfeit the right to operate a motor vehicle over the  
10 highways of this State for a period of eight years following the  
11 installation of an ignition interlock device in one motor vehicle  
12 owned, leased, or principally operated by the person, whichever the  
13 person most often operates, for the purpose of complying with the  
14 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A conviction  
15 or administrative determination of a violation of a law of a  
16 substantially similar nature in another jurisdiction, regardless of  
17 whether that jurisdiction is a signatory to the Interstate Driver  
18 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
19 shall constitute a prior conviction under this section.

20 The municipal court shall determine by a preponderance of the  
21 evidence whether the arresting officer had probable cause to believe  
22 that the person had been driving or was in actual physical control of  
23 a motor vehicle on the public highways or quasi-public areas of this  
24 State while the person was under the influence of intoxicating  
25 liquor or a narcotic, hallucinogenic, or habit-producing drug or  
26 marijuana; whether the person was placed under arrest, if  
27 appropriate, and whether he refused to submit to the test upon  
28 request of the officer; and if these elements of the violation are not  
29 established, no conviction shall issue. In addition to any other  
30 requirements provided by law, a person whose operator's license is  
31 revoked for refusing to submit to a test shall be referred to an  
32 Intoxicated Driver Resource Center established by subsection (f) of  
33 R.S.39:4-50 and shall satisfy the same requirements of the center  
34 for refusal to submit to a test as provided for in section 2 of  
35 P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second,  
36 third or subsequent offense under this section that must be satisfied  
37 by a person convicted of a commensurate violation of this section,  
38 or be subject to the same penalties as such a person for failure to do  
39 so. For a first offense, the revocation may be concurrent with or  
40 consecutive to any revocation imposed for a conviction under the  
41 provisions of R.S.39:4-50 arising out of the same incident. For a  
42 second or subsequent offense, the revocation shall be consecutive to  
43 any revocation imposed for a conviction under the provisions of  
44 R.S.39:4-50. In addition to issuing a revocation, **【**except as  
45 provided in subsection b. of this section,**】** the municipal court shall  
46 fine a person convicted under this section, a fine of not less than  
47 \$300 or more than \$500 for a first offense; a fine of not less than

1 \$500 or more than \$1,000 for a second offense; and a fine of \$1,000  
2 for a third or subsequent offense. **【The person also shall be**  
3 **required to install an ignition interlock device pursuant to the**  
4 **provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).】**

5 b. **【For a first offense, the fine imposed upon the convicted**  
6 **person shall be not less than \$600 or more than \$1,000 and the**  
7 **period of license suspension shall be not less than one year or more**  
8 **than two years; for a second offense, a fine of not less than \$1,000**  
9 **or more than \$2,000 and a license suspension for a period of four**  
10 **years; and for a third or subsequent offense, a fine of \$2,000 and a**  
11 **license suspension for a period of 20 years when a violation of this**  
12 **section occurs while:**

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

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

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

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

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

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

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

38

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

41 2. a. (1) Except as provided in paragraph (2) of this  
42 subsection, (a) in sentencing a first offender under subparagraph (i)  
43 of paragraph (1) of subsection (a) of R.S.39:4-50, whose blood  
44 alcohol concentration was at least 0.08% but less than 0.10%, or  
45 who was otherwise under the influence of intoxicating liquor, the  
46 court **【may】 shall** order, in addition to any other penalty imposed  
47 by that section, the installation of an ignition interlock device in

1 ~~the~~ one motor vehicle owned, leased, or principally operated by  
2 the offender ~~following the expiration of the period of license~~  
3 suspension imposed under that section. In sentencing a first  
4 offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
5 court shall order, in addition to any other penalty imposed by that  
6 section, the installation of an ignition interlock device in the motor  
7 vehicle principally operated by the offender during and following  
8 the expiration of the period of license suspension imposed under  
9 that section. The device], whichever the offender most often  
10 operates, which shall remain installed for [not less than six months  
11 or more than one year, commencing immediately upon the return of  
12 the offender's driver's license after the required period of  
13 suspension has been served] three months.

14 (b) In sentencing a first offender under subparagraph (ii) of  
15 paragraph (1) of subsection (a) of R.S.39:4-50 whose blood alcohol  
16 concentration was 0.10% or higher, but less than 0.15%, the court  
17 shall order, in addition to any other penalty imposed, the  
18 installation of an ignition interlock device in one motor vehicle  
19 owned, leased, or principally operated by the offender, whichever  
20 the offender most often operates, which shall remain installed for  
21 not less than seven months or more than one year.

22 (2) If the first offender's blood alcohol concentration is 0.15%  
23 or higher, or the offender violated section 2 of P.L.1981, c.512  
24 (C.39:4-50.4a), the court shall order, in addition to any other  
25 penalty imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512  
26 (C.39:4-50.4a), the installation of an ignition interlock device in  
27 the] one motor vehicle owned, leased, or principally operated by  
28 the offender, whichever the offender most often operates, during  
29 and following the expiration of the period of license [suspension]  
30 forfeiture imposed under [that section] those sections. In addition  
31 to installation during the period of license suspension, the device  
32 shall remain installed for not less than [six] nine months or more  
33 than [one year] 15 months, commencing immediately upon  
34 installation of the device and the return of the offender's driver's  
35 license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18)  
36 after the required period of [suspension] forfeiture has been served.

37 b. In sentencing a second or subsequent offender under  
38 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
39 court shall order, in addition to any other penalty imposed by that  
40 section, the installation of an ignition interlock device in the motor  
41 vehicle principally operated by the offender during and following  
42 the expiration of the period of license [suspension] forfeiture  
43 imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
44 50.4a). In addition to installation during the period of license  
45 [suspension] forfeiture, the device shall remain installed for not  
46 less than [one year] two years or more than [three] four years,

1 commencing immediately upon installation of the device and the  
2 return of the offender's driver's license pursuant to section 3 of  
3 P.L.1999, c.417 (C.39:4-50.18) after the required period of  
4 **【suspension】** forfeiture has been served.

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

8 The offender shall provide to the court information identifying  
9 the motor vehicle on which the ignition interlock is to be installed,  
10 and any other information deemed relevant by the court, including,  
11 but not limited to, the offender's complete name, address, date of  
12 birth, eye color, and gender. An offender who does not own, lease,  
13 or operate a motor vehicle shall attest to this to the court. A  
14 violation of this provision shall constitute perjury pursuant to  
15 N.J.S.2C:28-1. An offender immediately shall notify the court of  
16 the purchase, lease, or access to operation of a motor vehicle and  
17 install an ignition interlock device in the vehicle.

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

22 d. As used in **【this act】** P.L.1999, c.417 (C.39:4-50.16 et al.),  
23 "ignition interlock device" or "device" means a blood alcohol  
24 equivalence measuring device which will prevent a motor vehicle  
25 from starting if the operator's blood alcohol **【content】** concentration  
26 exceeds a predetermined level when the operator blows into the  
27 device.

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

32 f. A person who does not possess a valid driver's license issued  
33 by this State at the time of the imposition of a sentence pursuant to  
34 this section shall be prohibited from obtaining a driver's license for  
35 the duration of that sentence. Upon obtaining a driver's license, the  
36 person shall be sentenced to a period of ignition interlock device  
37 installation pursuant to the provisions of this section.

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

39

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

42 3. a. The court shall notify the **【Director】** Chief Administrator  
43 of the **【Division of】** New Jersey Motor **【Vehicles】** Vehicle  
44 Commission when a person has been ordered to install an ignition  
45 interlock device in a vehicle **【owned, leased or regularly operated**  
46 **by the person】** pursuant to the provisions of P.L.1999, c.417



1 (C.39:4-50.16 et al.). The **【division】** commission shall require that  
2 the device be installed before **【reinstatement】** restoration of the  
3 person's driver's license that has been **【suspended】** forfeited  
4 pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
5 50.4a).

6 b. The **【division】** commission shall imprint a notation on the  
7 driver's license stating that the person shall not operate a motor  
8 vehicle unless it is equipped with an ignition interlock device and  
9 shall enter this requirement in the person's driving record. The  
10 expiration date of the device requirement shall not be imprinted on  
11 the license.

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

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

22 (2) the person complied with all required maintenance, repair,  
23 calibration, monitoring, and inspection requirements related to the  
24 device.

25 d. If the vendor does not issue a certification to the person  
26 because there were two or more violations of paragraph (1) of  
27 subsection c. of this section, the vendor shall forward the violation  
28 information to the chief administrator and the court. The court shall  
29 decide whether to extend the period of ignition interlock device  
30 installation for up to 90 days or issue the certification to the chief  
31 administrator.

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

33  
34 <sup>16.</sup> (New section) The chief administrator semiannually shall  
35 issue a summary report containing the following information  
36 concerning offenders required to install an ignition interlock device  
37 pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17):

38 a. the total number of offenders ordered to install an ignition  
39 interlock categorized by the offender's number of convictions and  
40 place of residence;

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

- 1     c. the average length of time an offender maintains installation  
2 of the device categorized by the offender's number of convictions;  
3 and  
4     d. the percent of offenders who remove the ignition interlock  
5 device because they are unable to afford continued installation.<sup>1</sup>  
6

7     <sup>1</sup>~~[6]~~ 7<sup>1</sup>. This act shall take effect on the first day of the fourth  
8 month after enactment and shall apply to any offense occurring on  
9 or after that date<sup>1</sup>; the act shall expire on the first day of the fifth  
10 year next following the effective date<sup>1</sup>. The Chief Administrator of  
11 the New Jersey Motor Vehicle Commission may take any  
12 anticipatory administrative action in advance of that date as shall be  
13 necessary to implement the provisions of this act.  
14

15

16

17

18

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

# SENATE, No. 824

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

**Senators Cardinale and Diegnan**

**SYNOPSIS**

Revises penalties for drunk driving and ignition interlock device violations.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 9/14/2018)**

S824 SCUTARI

2

1 AN ACT concerning drunk driving and ignition interlock devices  
2 and amending R.S.39:4-50, P.L.1981, c.512, and P.L.1999,  
3 c.417.

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

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

9 39:4-50. (a) Except as provided in subsection (g) of this section,  
10 a person who operates a motor vehicle while under the influence of  
11 intoxicating liquor, narcotic, hallucinogenic or habit-producing  
12 drug, or operates a motor vehicle with a blood alcohol concentration  
13 of 0.08% 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  
18 concentration of 0.08% or more by weight of alcohol in the  
19 defendant's blood shall be subject:

20 (1) For the first offense:

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

37 (ii) if the person's blood alcohol concentration is 0.10% or  
38 higher, or the person operates a motor vehicle while under the  
39 influence of narcotic, hallucinogenic or habit-producing drug, or the  
40 person permits another person who is under the influence of  
41 narcotic, hallucinogenic or habit-producing drug to operate a motor  
42 vehicle owned by him or in his custody or control, or permits  
43 another person with a blood alcohol concentration of 0.10% or more  
44 to operate a motor vehicle, to a fine of not less than \$300 nor more  
45 than \$500 and a period of detainment of not less than 12 hours nor

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

**Matter underlined thus is new matter.**

1 more than 48 hours spent during two consecutive days of not less  
2 than six hours each day and served as prescribed by the program  
3 requirements of the Intoxicated Driver Resource Centers established  
4 under subsection (f) of this section and, in the discretion of the  
5 court, a term of imprisonment of not more than 30 days and shall  
6 forthwith forfeit his right to operate a motor vehicle over the  
7 highways of this State for a period of ~~not less than seven months~~  
8 ~~nor more than one year~~ 45 days if the person's blood alcohol  
9 concentration was less than 0.15 percent and a period of 90 days if  
10 the person's blood alcohol concentration was 0.15 percent or  
11 higher;

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

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

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

42 As used in this section, the phrase "narcotic, hallucinogenic or  
43 habit-producing drug" includes an inhalant or other substance  
44 containing a chemical capable of releasing any toxic vapors or  
45 fumes for the purpose of inducing a condition of intoxication, such  
46 as any glue, cement or any other substance containing one or more  
47 of the following chemical compounds: acetone and acetate, amyl  
48 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl

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1 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,  
2 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or  
3 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous  
4 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl  
5 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or  
6 any other chemical substance capable of causing a condition of  
7 intoxication, inebriation, excitement, stupefaction or the dulling of  
8 the brain or nervous system as a result of the inhalation of the  
9 fumes or vapors of such chemical substance.

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

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

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

46 A person who has been convicted of a previous violation of this  
47 section need not be charged as a second or subsequent offender in  
48 the complaint made against him in order to render him liable to the

1 punishment imposed by this section on a second or subsequent  
2 offender, but if the second offense occurs more than 10 years after  
3 the first offense, the court shall treat the second conviction as a first  
4 offense for sentencing purposes and if a third offense occurs more  
5 than 10 years after the second offense, the court shall treat the third  
6 conviction as a second offense for sentencing purposes.

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

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

1 Failure to receive a written notice or failure to acknowledge in  
2 writing the receipt of a written notice shall not be a defense to a  
3 subsequent charge of a violation of this section.

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

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

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

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

39 Required detention periods at the Intoxicated Driver Resource  
40 Centers shall be determined according to the individual treatment  
41 classification assigned by the Intoxicated Driving Program Unit.  
42 Upon attendance at an Intoxicated Driver Resource Center, a person  
43 shall be required to pay a per diem fee of \$75 for the first offender  
44 program or a per diem fee of \$100 for the second offender program,  
45 as appropriate. Any increases in the per diem fees after the first full  
46 year shall be determined pursuant to rules and regulations adopted  
47 by the Commissioner of **Health** Human Services in consultation  
48 with the Governor's Council on Alcoholism and Drug Abuse



1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
2 (C.52:14B-1 et seq.).

3 The centers shall conduct a program of alcohol and drug  
4 education and highway safety, as prescribed by the chief  
5 administrator.

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

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

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

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

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

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

46 It shall not be relevant to the imposition of sentence pursuant to  
47 paragraph (1) or (2) of this subsection that the defendant was  
48 unaware that the prohibited conduct took place while on or within

1 1,000 feet of any school property or while driving through a school  
2 crossing. Nor shall it be relevant to the imposition of sentence that  
3 no juveniles were present on the school property or crossing zone at  
4 the time of the offense or that the school was not in session.

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

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

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

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

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

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

1 its impact on the defendant. The county, a court, any facility visited  
2 pursuant to the program, any agents, employees, or independent  
3 contractors of the court, county, or facility visited pursuant to the  
4 program, and any person supervising a defendant during the  
5 visitation, are not liable for any civil damages resulting from injury  
6 to the defendant, or for civil damages associated with the visitation  
7 which are caused by the defendant, except for willful or grossly  
8 negligent acts intended to, or reasonably expected to result in, that  
9 injury or damage.

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

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

26 (cf: P.L.2014, c.54, s.2)

27

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

30 2. a. Except as provided in subsection b. of this section, the  
31 municipal court shall revoke the right to operate a motor vehicle of  
32 any operator who, after being arrested for a violation of R.S.39:4-50  
33 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to  
34 submit to a test provided for in section 2 of P.L.1966, c.142  
35 (C.39:4-50.2) when requested to do so, for **not less than seven**  
36 **months or more than one year** 90 days unless the refusal was in  
37 connection with a second offense under this section, in which case  
38 the revocation period shall be for two years or unless the refusal  
39 was in connection with a third or subsequent offense under this  
40 section in which case the revocation shall be for ten years. A  
41 conviction or administrative determination of a violation of a law of  
42 a substantially similar nature in another jurisdiction, regardless of  
43 whether that jurisdiction is a signatory to the Interstate Driver  
44 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
45 shall constitute a prior conviction under this section.

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

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

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

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

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

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

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

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

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

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

13

14 3 Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to  
15 read as follows:

16 2. a. (1) **【**Except as provided in paragraph (2) of this  
17 subsection, in **】** In sentencing a first offender under R.S.39:4-50, the  
18 court **【**may **】** shall order, in addition to any other penalty imposed  
19 by that section, the installation of an ignition interlock device in the  
20 motor vehicle principally operated by the offender during and  
21 following the expiration of the period of license suspension  
22 imposed under that section. In addition to installation during the  
23 period of license suspension, the device shall remain installed not  
24 less than three months or more than six months if the offender's  
25 blood alcohol concentration is 0.08 percent or higher but less than  
26 0.10 percent, and not less than six months or more than one year if  
27 the offender's blood alcohol concentration is 0.10 percent or higher,  
28 but less than 0.15 percent. In sentencing a first offender under  
29 section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in  
30 addition to any other penalty imposed by that section, the  
31 installation of an ignition interlock device in the motor vehicle  
32 principally operated by the offender during and following the  
33 expiration of the period of license suspension imposed under that  
34 section. The device shall remain installed not less than six months  
35 or more than one year, commencing immediately upon the return of  
36 the offender's driver's license after the required period of  
37 suspension has been served.

38 (2) If the first offender's blood alcohol concentration is 0.15%  
39 or higher, the court shall order, in addition to any other penalty  
40 imposed under R.S.39:4-50, the installation of an ignition interlock  
41 device in the motor vehicle principally operated by the offender  
42 during and following the expiration of the period of license  
43 suspension imposed under that section. In addition to installation  
44 during the period of license suspension, the device shall remain  
45 installed for not less than **【**six months **】** one year or more than **【**one  
46 year **】** 18 months, commencing immediately upon the return of the

1 offender's driver's license after the required period of suspension  
2 has been served.

3 b. In sentencing a second or subsequent offender under  
4 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
5 court shall order, in addition to any other penalty imposed by that  
6 section, the installation of an ignition interlock device in **【the】** each  
7 motor vehicle **【principally】** owned or operated, or both, by the  
8 offender during and following the expiration of the period of license  
9 suspension imposed under R.S.39:4-50 or section 2 of P.L.1981,  
10 c.512 (C.39:4-50.4a). In addition to installation during the period of  
11 license suspension, the device shall remain installed for not less  
12 than one year or more than three years, commencing immediately  
13 upon the return of the offender's driver's license after the required  
14 period of suspension has been served.

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

18 d. As used in this act, "ignition interlock device" or "device"  
19 means a blood alcohol equivalence measuring device which will  
20 prevent a motor vehicle from starting if the operator's blood alcohol  
21 content exceeds a predetermined level when the operator blows into  
22 the device.

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

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

28

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

31 3. a. The court shall notify the **【Director】** Chief Administrator  
32 of the **【Division of】** New Jersey Motor **【Vehicles】** Vehicle  
33 Commission when a person has been ordered to install an interlock  
34 device in a vehicle **【owned, leased or regularly operated by the**  
35 **person】** pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17).  
36 The **【division】** commission shall require that the device be installed  
37 before reinstatement of the person's driver's license that has been  
38 suspended pursuant to R.S.39:4-50.

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

45 c. Notwithstanding the provisions of section 2 of P.L.1999,  
46 c.41 (C.39:4-50.17), an ignition interlock device shall not be  
47 removed on the date of completion of the person's interlock

1 sentence unless the person provides to the New Jersey Motor  
2 Vehicle Commission certification from the manufacturer that,  
3 within the final one-third of that sentence:

4 (1) there were no attempts to start the motor vehicle with a  
5 blood alcohol concentration of 0.08 percent or higher unless a re-  
6 test conducted within five minutes of the initial test indicates a  
7 blood alcohol concentration of less than 0.08 percent;

8 (2) there were no failures to take or pass any test with a blood  
9 alcohol concentration of 0.08 percent or higher unless a re-test  
10 conducted within five minutes of the initial test indicates a blood  
11 alcohol concentration of less than 0.08 percent; and

12 (3) the person complied with all maintenance, repair, calibration,  
13 monitoring, or inspection requirements related to the interlock  
14 device.

15 d. For the purposes of subsection c. of this section, the data  
16 from the readings of the interlock device shall be made available to  
17 the sentenced person upon request.

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

19

20 5. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
21 read as follows:

22 4. a. **【A】** The driver's license of a person who fails to install  
23 an interlock device as ordered by the court in a motor vehicle  
24 **【owned, leased or regularly operated by him shall have his driver's**  
25 **license】** pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17)  
26 shall be suspended for **【one year】 18 months,** in addition to any  
27 other suspension or revocation imposed under R.S.39:4-50, unless  
28 the court determines a valid reason exists for the failure to comply.  
29 A person in whose vehicle an interlock device is installed pursuant  
30 to a court order who drives that vehicle after it has been started by  
31 any means other than **【his own】 the person** blowing into the device  
32 or who drives a vehicle that is not equipped with **【such】** a device  
33 shall have **【his】 the person's** driver's license suspended for **【one**  
34 year】 18 months, in addition to any other penalty applicable by law.

35 b. A person is a disorderly person who:

36 (1) blows into an interlock device or otherwise starts a motor  
37 vehicle equipped with **【such a】 the** device for the purpose of  
38 providing an operable motor vehicle to a person who has been  
39 ordered by the court to install the device in the vehicle;

40 (2) tampers or in any way circumvents the operation of an  
41 interlock device; or

42 (3) knowingly rents, leases or lends a motor vehicle not  
43 equipped with an interlock device to a person who has been ordered  
44 by the court to install an interlock device in a vehicle **【he owns,**  
45 **leases or regularly operates】** pursuant to section 2 of P.L.1999,  
46 c.417 (C.39:4-50.17).

1 c. The provisions of subsection b. of this section shall not  
2 apply if a motor vehicle required to be equipped with an ignition  
3 interlock device is started by a person for the purpose of safety or  
4 mechanical repair of the device or the vehicle, provided the person  
5 subject to the court order does not operate the vehicle.  
6 (cf: P. L.2009, c.201, s.3)

7  
8 6. This act shall take effect on the first day of the fourth month  
9 after enactment and shall apply to any offense occurring on or after  
10 that date, and additionally the Chief Administrator of the Motor  
11 Vehicle Commission may take any anticipatory administrative  
12 action in advance of that date as shall be necessary to implement the  
13 provisions of this act.

14  
15  
16 STATEMENT

17  
18 This bill decreases the length of driver's license suspensions for  
19 drunk driving and refusing to submit to a breathalyzer test, but  
20 increases ignition interlock device requirements for these offenses.

21 Under current law, the period of driver's license suspension for  
22 first time drunk driving offenders is based on the offender's blood  
23 alcohol concentration (BAC). If the offender's BAC is 0.08 percent  
24 or higher but less than 0.10 percent, the driver's license is  
25 suspended for three months. If the offender's BAC is 0.10 percent  
26 or higher, the driver's license is suspended for seven months to one  
27 year. The driver's license suspension for refusing to submit to a  
28 breathalyzer test currently is seven months to one year.

29 Under this bill, the three month driver's license suspension for  
30 first time offenders with a BAC of between 0.08 percent and 0.10 is  
31 reduced to 30 days. The seven month driver's license suspension  
32 for first time offenders with a BAC of 0.10 percent or higher is  
33 reduced to 45 days if the BAC is less than 0.15 percent and reduced  
34 to 90 days if the BAC is 0.15 percent or more. The seven month  
35 driver's license suspension for a first of offense of refusing to  
36 submit to a breathalyzer test is reduced from seven months to one  
37 year to 90 days under the bill.

38 Under current law, the installation of an ignition interlock device  
39 (IID) is discretionary for first time drunk driving offenders whose  
40 BAC is under 0.15 percent; if required by the court, the IID is to be  
41 installed in the motor vehicle principally operated by the offender  
42 for six months to one year following the license suspension. First  
43 time offenders whose BAC is 0.15 percent or higher are required to  
44 install an IID in the motor vehicle they principally operate during  
45 the period of suspension, in addition to six months to one year  
46 following the suspension. Installation of an IID also is mandatory  
47 for a first offense of refusing to submit to a breathalyzer test; it is



1 required during the period of license suspension and six months to  
2 one year after the suspension.

3 Under the bill, installation of an IID would be mandatory for first  
4 time offenders and would be required during the license suspension,  
5 as well as following the suspension. For first time offenders whose  
6 BAC is 0.08 or higher and less than 0.10 percent, the required  
7 period of installation is three to six months; for a BAC of 0.10  
8 percent or higher but less than 0.15 percent, the installation period  
9 is six months to one year; and for a BAC of 0.15 percent or higher  
10 the installation period is one year to 18 months.

11 Under the bill, drivers with multiple convictions of drunk driving  
12 or refusing the breathalyzer would be required to install the IID on  
13 each motor vehicle they own or operate.

14 The bill further specifies that a driver may not remove an IID on  
15 the date of completing the required period of installation unless the  
16 driver provides to the New Jersey Motor Vehicle Commission  
17 certification from the manufacturer that, within the final one-third  
18 of that period certain conditions were met. First, the driver is  
19 required to certify that there were no attempts to start the motor  
20 vehicle with a BAC of 0.08 percent or higher unless a re-test  
21 conducted within five minutes of the initial test indicates a BAC of  
22 less than 0.08 percent. The driver also is to certify that there were  
23 no failures to take or pass a test with a BAC of 0.08 percent or  
24 higher unless a re-test conducted within five minutes of the initial  
25 test indicates a BAC of less than 0.08 percent. Finally, the driver  
26 has to certify that he or she complied with all maintenance, repair,  
27 calibration, monitoring, or inspection requirements related to the  
28 IID. The data from the readings of the IID are to be made available  
29 to the sentenced person upon request.

30 Current law provides for a one year driver's license suspension  
31 for failing to install a required IID. The bill increases the  
32 suspension to 18 months.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

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

# STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2018

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bill No. 824.

This substitute bill revises the penalty provisions for various drunk driving offenses, particularly making changes concerning the use of, and applicable time periods covering, driver's license forfeitures and installations of ignition interlock devices on motor vehicles owned or operated by these drivers.

#### Drunk Driving

Concerning the offense of driving under the influence of alcohol or drugs (R.S.39:4-50), the bill revises the relevant penalty provisions as follows:

*For a first offense*, if that offense involved a person's blood alcohol concentration of 0.08% or higher but less than 0.10%, or otherwise operating a motor vehicle while under the influence of intoxicating liquor, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for a period of three months, unless the court was clearly convinced, after consideration on the record of a series of aggravating and mitigating factors as set forth in the bill, to instead order a license forfeiture of three months (a six-month forfeiture would apply instead of device installation if the person did not own, lease, or operate any motor vehicle).

The aggravating and mitigating factors for consideration by the court to order a license forfeiture, instead of device installation would include, but not be limited to: the nature and circumstances of the person's conduct, including whether such conduct posed a high risk of danger to the public; the person's driving record; whether the character and attitude of the person indicate that the person would be likely to commit another violation; and the need for personal or general deterrence.

If the court did order the installation of the ignition interlock device, the person's driver's license would only be restored upon showing proof of such installation, and the commission would imprint

a notation concerning driving with the device on the person's driver's license.

Additionally, for a person with an ignition interlock device installed on a motor vehicle, the three-month installation period would be subject to possible extension for an additional period of 30 days, commencing upon the expiration of the initial period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30 days of the initial installation period; if the attempt to operate the vehicle occurred during any extended period, an additional 30-day extension would commence upon the expiration of such extended period. This extension would occur without need of further court order, following notification of the event to the affected person by the Chief Administrator of the New Jersey Motor Vehicle Commission. A person would have the right to appeal any extended period of ignition interlock installation administratively imposed for attempting to operate a motor vehicle with an impermissible blood alcohol concentration.

If the first offense involved a person's blood alcohol concentration of 0.10% or higher but less than 0.15%, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for not less than seven months or more than one year, unless the court was clearly convinced, after consideration of the series of aggravating and mitigating factors as described above, to instead order a license forfeiture of not less than seven months or more than one year (a forfeiture of not less than one year or more than two years would apply instead of device installation if the person did not own, lease, or operate a motor vehicle). As above, if the person was ordered to install an ignition interlock device, the person could only reinstate the person's driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

If the first offense involved a person's blood alcohol concentration of 0.15% or higher, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, and maintain installation of the device during a period of license forfeiture of not less than seven months or more than one year and after the period of license forfeiture for an additional period of not less than seven months or more than one year, unless there was no such vehicle, in which case the person would

receive a period of forfeiture of not less than two years or more than four years.

With respect to the license forfeiture of a person with a blood alcohol concentration of 0.15% or higher, the person would have the opportunity, beginning 90 days after the start of the forfeiture, to petition the court to restore the person's driving privileges for the duration of the initially ordered period of forfeiture, subject to the person maintaining the installation of the ignition interlock device in the person's motor vehicle both for the remainder of the initially ordered forfeiture period and afterward for the additional seven-month to one-year period. For a person whose driving privileges were forfeited for a two to four year period because the person did not own, lease, or operate a motor vehicle, such person may petition the court, upon proof of owning, leasing, or intending to operating a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least two years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle. As above, a person ordered to install an ignition interlock device could only restore a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods of 90 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 90 days of the installation period.

If the offense involved a "drugged" driver (i.e., operating a motor vehicle under the influence of a narcotic, hallucinogenic, or habit-producing drug), the court would order a license forfeiture of not less than seven months or more than one year, with no option to instead operate a motor vehicle with an ignition interlock device installed.

For any such first offense of drunk or "drugged" driving occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other first offenses.

*For a second offense*, the bill increases, for all drunk and "drugged" drivers, the period of license forfeiture from the current law's two years to instead a period of not less than two years or more than four years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the two to four year period of forfeiture, and to remain installed afterward for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than four years or more than eight years.

With respect to a second offender's license forfeiture, a person who does not own, lease, or operate any motor vehicle may petition

the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least four years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above for any first offender, a person who is a second offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30, 45, or 90 days of the installation period, depending upon the blood alcohol concentration associated with the violation in the same manner as described above with respect to a first offense.

For a second offense occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other second offenses.

*For a third or subsequent offense*, the bill increases, for all drunk and "drugged" drivers, the period of license forfeiture from the current law's 10 years to instead a period of not less than 10 years or more than 20 years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the 10 to 20 year period of forfeiture, and to remain installed afterwards for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than 20 years or more than 40 years.

With respect to a third or subsequent offender's license forfeiture, a person who does not own, lease, or operate any motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least 20 years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above for both first and second offenders, a person who is a third or subsequent offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30, 45, or 90 days of the installation period, depending upon the blood alcohol concentration associated

with the violation in the same manner as described above with respect to a first offense.

A third or subsequent offender would also be required to perform community service for a period of not less than 60 days, which would be in the form and on the terms as the court deemed appropriate. This would be, at a minimum, a doubling of the 30-day community service requirement under the current law for a second offender.

For a third or subsequent offense occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other third or subsequent offenses.

#### Refusing a Breath Test

Concerning the offense of refusing to submit to a breath test (section 2 of P.L.1981, c.512 (C.39:4-50.4a)), the bill revises the relevant penalty provisions as follows:

*For a first offense*, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for not less than seven months or more than one year, unless the court was clearly convinced, after consideration on the record of a series of aggravating and mitigating factors as set forth in the bill, to instead order a license forfeiture of not less than seven months or more than one year (a forfeiture of not less than one year or more than two years would apply instead of device installation if the person did not own, lease, or operate a motor vehicle).

As above with respect to a drunk driving offense for a blood alcohol concentration of 0.10% or higher but less than 0.15%, if the person was ordered to install an ignition interlock device, the person could only reinstate the person's driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For any first offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other first offenses.

*For a second offense*, the bill increases the period of license forfeiture from the current two years to instead a period of not less than two years or more than four years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the two to four year forfeiture period and remain installed afterward for a period of not less than one year or more than

three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than four years or more than eight years.

A person who does not own, lease, or operate a motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least four years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above with respect to a first offense of refusing a breath test, a person who is a second offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For a second offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other second offenses.

*For a third or subsequent offense*, the bill increases the period of license forfeiture from the current 10 years to instead a period of not less than 10 years or more than 20 years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the 10 to 20 year period of forfeiture, and to remain installed afterwards for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than 20 years or more than 40 years.

A third or subsequent offender who does not own, lease, or operate a motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least 20 years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above with respect to a first or second offense of refusing a breath test, a person who is a third or subsequent offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For a third or subsequent offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other third or subsequent offenses.

Ignition Interlock Device Installation; License Reinstatement

A person required to install an ignition interlock device would be required to provide the vendor of the device at the time of installation the blood alcohol concentration, or information on the refusal to submit to a breath test, on which the sentence was based. Every vendor of an ignition interlock device would be required to adopt real time data reporting of the blood alcohol concentration of a person required to install a device and the predetermined fail level of each device.

With respect to all cases for which a person has been ordered to install one or more ignition interlock devices, the court would notify the Chief Administrator of the Motor Vehicle Commission. The commission would thereafter require that the one or more devices be installed before the reinstatement of the person's driver's license. The commission would imprint a notation on the restored driver's license stating that the person could not operate a motor vehicle unless it is equipped with an ignition interlock device, and would enter this requirement in the person's driving record.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, No. 824**

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2019

The Senate Budget and Appropriations Committee reports favorably this Senate Committee Substitute For Senate Bill No. 824 SCS.

This Senate committee substitute for Senate Bill No. 824 (SCS) reduces the length of driver's license forfeiture for convictions of drunk driving and refusing to submit to a breathalyzer and increases the period of required ignition interlock device (IID) installation for these offenses. The committee substitute also requires the license of a drunk driver who attests to not owning, leasing, or operating a motor vehicle to be forfeited during the required period of IID installation. The committee substitute further imposes certain IID compliance requirements to be met before an IID may be removed after the required period of installation. Finally, the committee substitute removes enhanced penalties for drunk driving and refusal convictions occurring in a school zone.

### Drunk Driving

For a first offense of drunk driving, the offender's driver's license is to be forfeited until an IID is installed in one motor vehicle owned, leased, or principally operated by the offender, whichever the person most often operates. If the offender's blood alcohol concentration (BAC) was 0.08% or higher, but less than 0.10%, or the offender was convicted of operating a motor vehicle while under the influence of intoxicating liquor without a BAC reading, the current three-month license forfeiture is replaced with mandatory IID installation for three months; if the offender's BAC was 0.10% or higher, but less than 0.15%, the current license forfeiture of seven months to one year is replaced with the requirement that an IID is to be installed for seven months to one year; if the offender's BAC was 0.15% or more, the current license forfeiture of seven months to one year is replaced by four to six months license forfeiture and an IID is to be installed during the period of license forfeiture, as well as for not less than nine months or more than 15 months after the period of license forfeiture.

For second drunk driving offenses, the current driver's license forfeiture is two years and for third and subsequent offenses, the forfeiture is for 10 years; the IID requirement is for one to three years. Under the substitute, license forfeiture is reduced to one to two years for second time offenders and to eight years for third and subsequent offenders; the requirement that IID be installed in one motor vehicle owned, leased, or principally operated by the offender, whichever the person most often operates, is increased to two to four years.

The license forfeiture period for first-time offenders of driving under the influence of drugs is not changed by the substitute. Further, installation of an IID is not required for first offenses of drugged driving.

The provision establishing enhanced penalties for a conviction of driving while intoxicated in a school zone is removed.

#### Refusing a Breath Test

For a first offense, the committee substitute requires the offender's license to be forfeited until the person installs an IID in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, rather than requiring the current seven months to one year. The IID is to remain installed during the license forfeiture and for the following nine to 15 months.

For a second offense, the bill decreases the period of license forfeiture from the current two years to one to two years. The offender's license is to be forfeited until an IID is installed and is to remain installed for two to four years.

For a third or subsequent offense, the committee substitute decreases the license forfeiture from the current 10 years to eight years. An IID would be required during the license forfeiture and remain installed for two to four years.

The provision establishing enhanced penalties for a conviction of refusing to submit to a breathalyzer occurring in a school zone is removed.

#### Ignition Interlock Device Installation

The committee substitute requires drunk driving offenders to provide the court with information identifying the motor vehicle on which an ignition interlock is to be installed, as well as any other information deemed relevant by the court, such as the offender's complete name, address, date of birth, eye color, and gender. An offender who does not own, lease, or operate a motor vehicle is required to attest to this to the court. An offender who falsely attests to the court may be prosecuted for perjury. If an offender subsequently purchases, leases, or gains access to a motor vehicle to operate, the offender is required to immediately notify the court and install an ignition interlock device in that vehicle.

The driver's license of an offender who attests to not owning, leasing, or operating a motor vehicle is to be forfeited for the required ignition interlock installation period.

In order to remove an IID after the required installation period, the IID vendor is to submit a certification to the Chief Administrator of the New Jersey Motor Vehicle Commission that during the final 30 days of the installation period there was not more than one failure to take or pass a test with a blood alcohol concentration of 0.08 percent or higher unless a re-test conducted within five minutes of the initial test indicates a blood alcohol concentration of less than 0.08 percent; and the offender complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device. If these requirements are not satisfied, the vendor is required to forward the violation information to the chief administrator and the court. The court has the discretion to either extend the period of IID installation for up to 90 days or issue the certification to the chief administrator.

FISCAL IMPACT:

The Office of Legislative Services finds that the bill will likely result in a small indeterminate increase in Judiciary Branch costs related to additional court time required to process these cases. The Motor Vehicle Commission will incur staffing expenses to monitor and verify the installation of interlock devices. The MVC may also incur limited costs to produce new informational materials reflecting the new structure of the penalties. Finally, the State may realize an indeterminate reduction in revenue due to the bill's removal of enhanced penalties for violations occurring on or near a school property.

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 824**

Assembly Floor Amendments  
(Proposed by Assemblywoman DOWNEY)

ADOPTED: JUNE 20, 2019

The Senate committee substitute for Senate Bill No. 824 SCS reduces the length of driver's license forfeiture for convictions of drunk driving and refusing to submit to a breathalyzer and increases the period of required ignition interlock device (IID) installation for these offenses.

These Assembly amendments require the Chief Administrator of the New Jersey Motor Vehicle Commission to semiannually issue a summary report containing information on drunk driving offenders required to install an ignition interlock device. The information is to include: the total number of offenders ordered to install an ignition interlock categorized by the offender's number of convictions and place of residence; whether the offender qualifies for a reduced fee for monthly rental of an ignition interlock device categorized by family income exceeding 100 percent or 149 percent of the federal poverty level; the percentage of these offenders compared to the total number of offenders; and the number of these offenders residing in each county; the average length of time an offender maintains installation of the device categorized by the offender's number of convictions; and the percent of offenders who remove the ignition interlock device because they are unable to afford continued installation.

The Assembly amendments also provide that the bill's provisions are to expire four years after the effective date.

These Assembly amendments make the Senate committee substitute for Senate Bill No. 824 (SCS) identical to the Assembly Committee Substitute for Assembly Bill No. 2089 (ACS), as reported by the Assembly Appropriations Committee on June 18, 2019.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, No. 824**

**STATE OF NEW JERSEY  
218th LEGISLATURE**

DATED: JULY 17, 2019

## SUMMARY

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

**Type of Impact:** Annual State expenditure increases; annual State revenue decreases

**Agencies Affected:** New Jersey Motor Vehicle Commission

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Expenditure Increase</b>		Indeterminate	
<b>State Revenue Decrease</b>		Indeterminate	

- The Office of Legislative Services (OLS) finds that the expanded use of ignition interlock device (IID) installations for drunk driving offenses will result in increased annual State expenditures. The Motor Vehicle Commission (MVC) will incur additional expenses to monitor and verify IID installations and for the processing of certain breathalyzer results. The MVC may also incur limited costs to produce informational materials reflecting the new penalties and to produce a semiannual summary report on IID installations.
- The State will realize a reduction in revenue from the removal of enhanced penalty provisions for violations occurring on or near school property, which carry larger monetary fines.

## BILL DESCRIPTION

This bill revises the penalty provisions for various drunk driving offenses. In particular, it reduces the length of driver's license forfeiture for convictions of drunk driving and refusing to submit to a breathalyzer and increases the period of required IID installation for these offenses.

For drunk driving offenses and for refusing to submit to a breathalyzer test that involve a person's blood alcohol concentration (BAC) of 0.08% or higher, the court would order a license forfeiture until the person installs an IID on the vehicle, which would then remain on the vehicle for varying periods of time depending upon the BAC level and how many times the offense has occurred.

After the installation of the IID, the person's driver's license would be restored upon showing proof of such installation, and the MVC would imprint a notation concerning driving with the device on the person's license.

For offenses occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other comparable offenses.

A person required to install an IID would be required to provide the vendor of the device at the time of installation the BAC, or information on the refusal to submit to a breath test, on which the sentence was based. Every vendor of an IID would be required to adopt real time data reporting of the BAC of a person required to install a device and the predetermined fail level of each device.

In order to remove an IID after the required installation period, the IID vendor is to submit a certification to the Chief Administrator of the MVC that during the final 30 days of the installation period there was not more than one failure to take or pass a test with a blood alcohol concentration of 0.08 percent or higher unless a re-test conducted within five minutes of the initial test indicates a BAC of less than 0.08 percent; and the offender complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device. If these requirements are not satisfied, the vendor is required to forward the violation information to the chief administrator and the court. The court has the discretion to either extend the period of IID installation for up to 90 days or issue the certification to the chief administrator.

The bill requires the MVC commissioner to semiannually produce a report on IID installations. The bill is to expire on the first day of the 5<sup>th</sup> year following the effective date.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that the expanded use of IID installations for drunk driving and refusing to submit to a breathalyzer offenses will result in indeterminate annual State expenditure increases and an indeterminate annual decrease in State revenues. There will likely be an additional burden on customer service staff at the MVC to serve those requiring restricted licenses and to monitor and verify the installation and processing of IID installations. It is expected that the impact of that workload will likely not entail the hiring of additional employees for direct customer service at MVC locations. However, it may be necessary for the MVC to hire additional professional staff to administer the expanded IID installation program, including the verification of test results from the devices prior to their removal and reviewing documentation from device vendors. Additionally, there may be recurring costs for program materials related to the new enhanced use of IID installations under the bill, including pamphlets or brochures explaining the new penalties based on intoxication level and number of offenses. The MVC will

also incur costs for staff time in order to produce the semiannual report on IID installations required under the bill. The amount of time required will depend upon how much of the information in the report can be automatically produced by IID vendors and how much tabulation and analysis will be required internally by staff.

The State is also likely to realize reduced revenue based on the removal of certain enhanced penalties that are currently available for drunk driving offenses and failure to submit to a breathalyzer test that occur on or near school property. Some of these enhanced penalties include larger monetary fines, which would no longer be imposed.

*Section: Authorities, Utilities, Transportation and Communications*

*Analyst: Patrick Brennan  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# ASSEMBLY, No. 2089

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblywomen Chaparro, N.Munoz, Mosquera, Assemblymen Zwicker,  
DePhillips, Holley and Assemblywoman Reynolds-Jackson**

**SYNOPSIS**

Revises penalties for drunk driving and ignition interlock device violations.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 9/28/2018)**



1 AN ACT concerning drunk driving and ignition interlock devices  
2 and amending R.S.39:4-50, P.L.1981, c.512, and P.L.1999,  
3 c.417.  
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  
10 section, a person who operates a motor vehicle while under the  
11 influence of intoxicating liquor, narcotic, hallucinogenic or habit-  
12 producing drug, or operates a motor vehicle with a blood alcohol  
13 concentration of 0.08% or more by weight of alcohol in the  
14 defendant's blood or permits another person who is under the  
15 influence of intoxicating liquor, narcotic, hallucinogenic or habit-  
16 producing drug to operate a motor vehicle owned by him or in his  
17 custody or control or permits another to operate a motor vehicle  
18 with a blood alcohol concentration of 0.08% or more by weight of  
19 alcohol in the defendant's blood shall be subject:

20 (1) For the first offense:

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

37 (ii) if the person's blood alcohol concentration is 0.10% or  
38 higher, or the person operates a motor vehicle while under the  
39 influence of narcotic, hallucinogenic or habit-producing drug, or the  
40 person permits another person who is under the influence of  
41 narcotic, hallucinogenic or habit-producing drug to operate a motor  
42 vehicle owned by him or in his custody or control, or permits  
43 another person with a blood alcohol concentration of 0.10% or more  
44 to operate a motor vehicle, to a fine of not less than \$300 nor more  
45 than \$500 and a period of detainment of not less than 12 hours nor

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

Matter underlined thus is new matter.

1 more than 48 hours spent during two consecutive days of not less  
2 than six hours each day and served as prescribed by the program  
3 requirements of the Intoxicated Driver Resource Centers established  
4 under subsection (f) of this section and, in the discretion of the  
5 court, a term of imprisonment of not more than 30 days and shall  
6 forthwith forfeit his right to operate a motor vehicle over the  
7 highways of this State for a period of ~~not less than seven months~~  
8 ~~nor more than one year~~ 45 days if the person's blood alcohol  
9 concentration was 0.10 percent or higher, but less than 0.15 percent  
10 and a period of 90 days if the person's blood alcohol concentration  
11 was 0.15 percent or higher;

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

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

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

42 As used in this section, the phrase "narcotic, hallucinogenic or  
43 habit-producing drug" includes an inhalant or other substance  
44 containing a chemical capable of releasing any toxic vapors or  
45 fumes for the purpose of inducing a condition of intoxication, such  
46 as any glue, cement or any other substance containing one or more  
47 of the following chemical compounds: acetone and acetate, amyl  
48 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl

1 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,  
2 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or  
3 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous  
4 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl  
5 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or  
6 any other chemical substance capable of causing a condition of  
7 intoxication, inebriation, excitement, stupefaction or the dulling of  
8 the brain or nervous system as a result of the inhalation of the  
9 fumes or vapors of such chemical substance.

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

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

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

46 A person who has been convicted of a previous violation of this  
47 section need not be charged as a second or subsequent offender in  
48 the complaint made against him in order to render him liable to the

1 punishment imposed by this section on a second or subsequent  
2 offender, but if the second offense occurs more than 10 years after  
3 the first offense, the court shall treat the second conviction as a first  
4 offense for sentencing purposes and if a third offense occurs more  
5 than 10 years after the second offense, the court shall treat the third  
6 conviction as a second offense for sentencing purposes.

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

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

1 Failure to receive a written notice or failure to acknowledge in  
2 writing the receipt of a written notice shall not be a defense to a  
3 subsequent charge of a violation of this section.

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

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

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

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

39 Required detention periods at the Intoxicated Driver Resource  
40 Centers shall be determined according to the individual treatment  
41 classification assigned by the Intoxicated Driving Program Unit.  
42 Upon attendance at an Intoxicated Driver Resource Center, a person  
43 shall be required to pay a per diem fee of \$75 for the first offender  
44 program or a per diem fee of \$100 for the second offender program,  
45 as appropriate. Any increases in the per diem fees after the first full  
46 year shall be determined pursuant to rules and regulations adopted  
47 by the Commissioner of **Health** Human Services in consultation  
48 with the Governor's Council on Alcoholism and Drug Abuse

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
2 (C.52:14B-1 et seq.).

3 The centers shall conduct a program of alcohol and drug  
4 education and highway safety, as prescribed by the chief  
5 administrator.

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

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

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

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

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

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

46 It shall not be relevant to the imposition of sentence pursuant to  
47 paragraph (1) or (2) of this subsection that the defendant was  
48 unaware that the prohibited conduct took place while on or within

1 1,000 feet of any school property or while driving through a school  
2 crossing. Nor shall it be relevant to the imposition of sentence that  
3 no juveniles were present on the school property or crossing zone at  
4 the time of the offense or that the school was not in session.

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

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

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

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

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

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

1 its impact on the defendant. The county, a court, any facility visited  
2 pursuant to the program, any agents, employees, or independent  
3 contractors of the court, county, or facility visited pursuant to the  
4 program, and any person supervising a defendant during the  
5 visitation, are not liable for any civil damages resulting from injury  
6 to the defendant, or for civil damages associated with the visitation  
7 which are caused by the defendant, except for willful or grossly  
8 negligent acts intended to, or reasonably expected to result in, that  
9 injury or damage.

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

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

26 (cf: P.L.2014, c.54, s.2)

27

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

30 2. a. Except as provided in subsection b. of this section, the  
31 municipal court shall revoke the right to operate a motor vehicle of  
32 any operator who, after being arrested for a violation of R.S.39:4-50  
33 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to  
34 submit to a test provided for in section 2 of P.L.1966, c.142  
35 (C.39:4-50.2) when requested to do so, for **not less than seven**  
36 **months or more than one year** 90 days unless the refusal was in  
37 connection with a second offense under this section, in which case  
38 the revocation period shall be for two years or unless the refusal  
39 was in connection with a third or subsequent offense under this  
40 section in which case the revocation shall be for ten years. A  
41 conviction or administrative determination of a violation of a law of  
42 a substantially similar nature in another jurisdiction, regardless of  
43 whether that jurisdiction is a signatory to the Interstate Driver  
44 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
45 shall constitute a prior conviction under this section.

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



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

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

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

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

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

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

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

5 It shall not be relevant to the imposition of sentence pursuant to  
6 paragraph (1) or (2) of this subsection that the defendant was  
7 unaware that the prohibited conduct took place while on or within  
8 1,000 feet of any school property or while driving through a school  
9 crossing. Nor shall it be relevant to the imposition of sentence that  
10 no juveniles were present on the school property or crossing zone at  
11 the time of the offense or that the school was not in session.  
12 (cf: P.L.2009, c.201, s.5)

13

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

16 2. a. (1) **【Except as provided in paragraph (2) of this**  
17 **subsection, in】** In sentencing a first offender under R.S.39:4-50, the  
18 court **【may】** shall order, in addition to any other penalty imposed  
19 by that section, the installation of an ignition interlock device in the  
20 motor vehicle principally operated by the offender during and  
21 following the expiration of the period of license suspension  
22 imposed under that section. In addition to installation during the  
23 period of license suspension, the device shall remain installed not  
24 less than three months or more than six months if the offender's  
25 blood alcohol concentration is 0.08 percent or higher but less than  
26 0.10 percent, and not less than six months or more than one year if  
27 the offender's blood alcohol concentration is 0.10 percent or higher,  
28 but less than 0.15 percent. In sentencing a first offender under  
29 section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in  
30 addition to any other penalty imposed by that section, the  
31 installation of an ignition interlock device in the motor vehicle  
32 principally operated by the offender during and following the  
33 expiration of the period of license suspension imposed under that  
34 section. The device shall remain installed not less than six months  
35 or more than one year, commencing immediately upon the return of  
36 the offender's driver's license after the required period of  
37 suspension has been served.

38 (2) If the first offender's blood alcohol concentration is 0.15%  
39 or higher, the court shall order, in addition to any other penalty  
40 imposed under R.S.39:4-50, the installation of an ignition interlock  
41 device in the motor vehicle principally operated by the offender  
42 during and following the expiration of the period of license  
43 suspension imposed under that section. In addition to installation  
44 during the period of license suspension, the device shall remain  
45 installed for not less than **【six months】** one year or more than **【one**  
46 **year】** 18 months, commencing immediately upon the return of the

1 offender's driver's license after the required period of suspension  
2 has been served.

3 b. In sentencing a second or subsequent offender under  
4 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
5 court shall order, in addition to any other penalty imposed by that  
6 section, the installation of an ignition interlock device in the motor  
7 vehicle principally operated by the offender during and following  
8 the expiration of the period of license suspension imposed under  
9 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). In  
10 addition to installation during the period of license suspension, the  
11 device shall remain installed for not less than one year or more than  
12 three years, commencing immediately upon the return of the  
13 offender's driver's license after the required period of suspension  
14 has been served.

15 c. The court shall require that, for the duration of its order, an  
16 offender shall not drive **no** any vehicle other than the one in  
17 which an interlock device has been installed pursuant to the order.

18 d. As used in this act, "ignition interlock device" or "device"  
19 means a blood alcohol equivalence measuring device which will  
20 prevent a motor vehicle from starting if the operator's blood alcohol  
21 content exceeds a predetermined level when the operator blows into  
22 the device.

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

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

28

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

31 3. a. The court shall notify the **Director** Chief  
32 Administrator of the **Division of** New Jersey Motor **Vehicles**  
33 Vehicle Commission when a person has been ordered to install an  
34 interlock device in a vehicle **owned, leased or regularly operated**  
35 by the person pursuant to section 2 of P.L.1999, c.417 (C.39:4-  
36 50.17). The **division** commission shall require that the device be  
37 installed before reinstatement of the person's driver's license that  
38 has been suspended pursuant to R.S.39:4-50.

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

45 c. Notwithstanding the provisions of section 2 of P.L.1999,  
46 c.41 (C.39:4-50.17), an ignition interlock device shall not be  
47 removed on the date of completion of the person's interlock

1 sentence unless the person provides to the New Jersey Motor  
2 Vehicle Commission certification from the manufacturer that,  
3 within the final one-third of that sentence:

4 (1) there were no attempts to start the motor vehicle with a  
5 blood alcohol concentration of 0.08 percent or higher unless a re-  
6 test conducted within five minutes of the initial test indicates a  
7 blood alcohol concentration of less than 0.08 percent;

8 (2) there were no failures to take or pass any test with a blood  
9 alcohol concentration of 0.08 percent or higher unless a re-test  
10 conducted within five minutes of the initial test indicates a blood  
11 alcohol concentration of less than 0.08 percent; and

12 (3) the person complied with all maintenance, repair,  
13 calibration, monitoring, or inspection requirements related to the  
14 interlock device.

15 d. For the purposes of subsection c. of this section, the data  
16 from the readings of the interlock device shall be made available to  
17 the sentenced person upon request.

18 e. Nothing in subsection c. of this section shall be construed to  
19 alter or change the current alcohol setpoint of an ignition interlock  
20 device as established in N.J.A.C.13:19-6.5.

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

22

23 5. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
24 read as follows:

25 4. a. **[A]** The driver's license of a person who fails to install  
26 an interlock device as ordered by the court in a motor vehicle  
27 **[owned, leased or regularly operated by him shall have his driver's**  
28 **license]** pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17)  
29 shall be suspended for **[one year] 18 months,** in addition to any  
30 other suspension or revocation imposed under R.S.39:4-50, unless  
31 the court determines a valid reason exists for the failure to comply.  
32 A person in whose vehicle an interlock device is installed pursuant  
33 to a court order who drives that vehicle after it has been started by  
34 any means other than **[his own] the person** blowing into the device  
35 or who drives a vehicle that is not equipped with **[such]** a device  
36 shall have **[his] the person's** driver's license suspended for **[one**  
37 year] 18 months, in addition to any other penalty applicable by law.

38 b. A person is a disorderly person who:

39 (1) blows into an interlock device or otherwise starts a motor  
40 vehicle equipped with **[such a] the** device for the purpose of  
41 providing an operable motor vehicle to a person who has been  
42 ordered by the court to install the device in the vehicle;

43 (2) tampers or in any way circumvents the operation of an  
44 interlock device; or

45 (3) knowingly rents, leases or lends a motor vehicle not  
46 equipped with an interlock device to a person who has been ordered  
47 by the court to install an interlock device in a vehicle **[he owns,**

1 leases or regularly operates] pursuant to section 2 of P.L.1999,  
2 c.417 (C.39:4-50.17).

3 c. The provisions of subsection b. of this section shall not  
4 apply if a motor vehicle required to be equipped with an ignition  
5 interlock device is started by a person for the purpose of safety or  
6 mechanical repair of the device or the vehicle, provided the person  
7 subject to the court order does not operate the vehicle.  
8 (cf: P.L.2009, c.201, s.3)

9  
10 6. This act shall take effect on the first day of the fourth month  
11 after enactment and shall apply to any offense occurring on or after  
12 that date, and additionally the Chief Administrator of the Motor  
13 Vehicle Commission may take any anticipatory administrative  
14 action in advance of that date as shall be necessary to implement the  
15 provisions of this act.

16  
17  
18 STATEMENT

19  
20 This bill decreases the length of driver's license suspensions for  
21 the first offense of drunk driving and refusing to submit to a  
22 breathalyzer test and increases ignition interlock device  
23 requirements for the offenses of drunk driving and refusing to  
24 submit to a breathalyzer test.

25 Under current law, the period of a driver's license suspension for  
26 first time drunk driving offenders is based on the offender's blood  
27 alcohol concentration (BAC). If the offender's BAC is 0.08 percent  
28 or higher but less than 0.10 percent, the driver's license is  
29 suspended for three months. If the offender's BAC is 0.10 percent  
30 or higher, the driver's license is suspended for seven months to one  
31 year. Currently, the driver's license suspension for refusing to  
32 submit to a breathalyzer test is seven months to one year.

33 The bill reduces the driver's license suspension for first time  
34 offenders with a BAC of between 0.08 percent and 0.10 from "three  
35 months" to 30 days. The bill reduces the driver's license  
36 suspension for first time offenders with a BAC greater than 0.10  
37 percent from "seven months to one year" to 45 days if the first time  
38 offender's BAC is between 0.10 percent and 0.15 percent and 90  
39 days if the first time offender's BAC is 0.15 percent or higher.

40 Under current law, the installation of an ignition interlock device  
41 (IID) is discretionary for first time drunk driving offenders whose  
42 BAC is under 0.15 percent but, if required by the court, the IID is to  
43 be installed in the motor vehicle principally operated by the  
44 offender for six months to one year following the license  
45 suspension. First time offenders whose BAC is 0.15 percent or  
46 higher are required to install an IID in the motor vehicle they  
47 principally operate during the period of suspension, in addition to  
48 six months to one year following the suspension. Installation of an

1 IID also is mandatory for a first offense of refusing to submit to a  
2 breathalyzer test; it is required during the period of license  
3 suspension and six months to one year after the suspension.

4 The bill makes mandatory the installation of an IID for first time  
5 offenders and is required during the license suspension, as well as  
6 following the suspension. For first time offenders whose BAC is  
7 0.08 or higher and less than 0.10 percent, the required period of  
8 installation is three to six months after the period of license  
9 suspension; for a BAC of 0.10 percent or higher but less than 0.15  
10 percent, the installation period is six months to one year after the  
11 license suspension; and for a BAC of 0.15 percent or higher the  
12 installation period is one year to 18 months after the license  
13 suspension.

14 The bill further specifies that a driver may not remove an IID on  
15 the date of completing the required period of installation unless the  
16 driver provides to the New Jersey Motor Vehicle Commission  
17 certification from the manufacturer that, within the final one-third  
18 of that period, certain conditions were met. First, the manufacturer's  
19 certification must state that there were no attempts to start the motor  
20 vehicle with a BAC of 0.08 percent or higher unless a re-test  
21 conducted within five minutes of the initial test indicates a BAC of  
22 less than 0.08 percent. The manufacturer's certification must  
23 further state that there were no failures to take or pass a test with a  
24 BAC of 0.08 percent or higher unless a re-test conducted within  
25 five minutes of the initial test indicates a BAC of less than 0.08  
26 percent. Finally, the manufacturer's certification must state that the  
27 driver complied with all maintenance, repair, calibration,  
28 monitoring, or inspection requirements related to the IID. The data  
29 from the readings of the IID are to be made available to the  
30 sentenced person upon request.

31 Current law provides for a one year driver's license suspension  
32 for failing to install a required IID. The bill increases the  
33 suspension to 18 months.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2089

**STATE OF NEW JERSEY**

DATED: NOVEMBER 26, 2018

The Assembly Judiciary Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 2089.

This substitute bill revises the penalty provisions for various drunk driving offenses, particularly making changes concerning the use of, and applicable time periods covering, driver's license forfeitures and installations of ignition interlock devices on motor vehicles owned or operated by these drivers.

Drunk Driving

Concerning the offense of driving under the influence of alcohol or drugs (R.S.39:4-50), the bill revises the relevant penalty provisions as follows:

*For a first offense*, if that offense involved a person's blood alcohol concentration of 0.08% or higher but less than 0.10%, or otherwise operating a motor vehicle while under the influence of intoxicating liquor, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for a period of three months, unless the court was clearly convinced, after consideration on the record of a series of aggravating and mitigating factors as set forth in the bill, to instead order a license forfeiture of three months (a six-month forfeiture would apply instead of device installation if the person did not own, lease, or operate any motor vehicle).

The aggravating and mitigating factors for consideration by the court to order a license forfeiture, instead of device installation would include, but not be limited to: the nature and circumstances of the person's conduct, including whether such conduct posed a high risk of danger to the public; the person's driving record; whether the character and attitude of the person indicate that the person would be likely to commit another violation; and the need for personal or general deterrence.

If the court did order the installation of the ignition interlock device, the person's driver's license would only be restored upon showing proof of such installation, and the commission would imprint

a notation concerning driving with the device on the person's driver's license.

Additionally, for a person with an ignition interlock device installed on a motor vehicle, the three-month installation period would be subject to possible extension for an additional period of 30 days, commencing upon the expiration of the initial period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30 days of the initial installation period; if the attempt to operate the vehicle occurred during any extended period, an additional 30-day extension would commence upon the expiration of such extended period. This extension would occur without need of further court order, following notification of the event to the affected person by the Chief Administrator of the New Jersey Motor Vehicle Commission. A person would have the right to appeal any extended period of ignition interlock installation administratively imposed for attempting to operate a motor vehicle with an impermissible blood alcohol concentration.

If the first offense involved a person's blood alcohol concentration of 0.10% or higher but less than 0.15%, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for not less than seven months or more than one year, unless the court was clearly convinced, after consideration of the series of aggravating and mitigating factors as described above, to instead order a license forfeiture of not less than seven months or more than one year (a forfeiture of not less than one year or more than two years would apply instead of device installation if the person did not own, lease, or operate a motor vehicle). As above, if the person was ordered to install an ignition interlock device, the person could only reinstate the person's driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

If the first offense involved a person's blood alcohol concentration of 0.15% or higher, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, and maintain installation of the device during a period of license forfeiture of not less than seven months or more than one year and after the period of license forfeiture for an additional period of not less than seven months or more than one year, unless there was no such vehicle, in which case the person would



receive a period of forfeiture of not less than two years or more than four years.

With respect to the license forfeiture of a person with a blood alcohol concentration of 0.15% or higher, the person would have the opportunity, beginning 90 days after the start of the forfeiture, to petition the court to restore the person's driving privileges for the duration of the initially ordered period of forfeiture, subject to the person maintaining the installation of the ignition interlock device in the person's motor vehicle both for the remainder of the initially ordered forfeiture period and afterward for the additional seven-month to one-year period. For a person whose driving privileges were forfeited for a two to four year period because the person did not own, lease, or operate a motor vehicle, such person may petition the court, upon proof of owning, leasing, or intending to operating a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least two years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle. As above, a person ordered to install an ignition interlock device could only restore a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods of 90 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 90 days of the installation period.

If the offense involved a "drugged" driver (i.e., operating a motor vehicle under the influence of a narcotic, hallucinogenic, or habit-producing drug), the court would order a license forfeiture of not less than seven months or more than one year, with no option to instead operate a motor vehicle with an ignition interlock device installed.

For any such first offense of drunk or "drugged" driving occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other first offenses.

*For a second offense*, the bill increases, for all drunk and "drugged" drivers, the period of license forfeiture from the current law's two years to instead a period of not less than two years or more than four years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the two to four year period of forfeiture, and to remain installed afterward for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than four years or more than eight years.

With respect to a second offender's license forfeiture, a person who does not own, lease, or operate any motor vehicle may petition

the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least four years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above for any first offender, a person who is a second offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30, 45, or 90 days of the installation period, depending upon the blood alcohol concentration associated with the violation in the same manner as described above with respect to a first offense.

For a second offense occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other second offenses.

*For a third or subsequent offense*, the bill increases, for all drunk and "drugged" drivers, the period of license forfeiture from the current law's 10 years to instead a period of not less than 10 years or more than 20 years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the 10 to 20 year period of forfeiture, and to remain installed afterwards for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than 20 years or more than 40 years.

With respect to a third or subsequent offender's license forfeiture, a person who does not own, lease, or operate any motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least 20 years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above for both first and second offenders, a person who is a third or subsequent offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could, when given notice by the chief administrator, have the installation period extended for one or more additional periods, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 30, 45, or 90 days of the installation period, depending upon the blood alcohol concentration associated

with the violation in the same manner as described above with respect to a first offense.

A third or subsequent offender would also be required to perform community service for a period of not less than 60 days, which would be in the form and on the terms as the court deemed appropriate. This would be, at a minimum, a doubling of the 30-day community service requirement under the current law for a second offender.

For a third or subsequent offense occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other third or subsequent offenses.

#### Refusing a Breath Test

Concerning the offense of refusing to submit to a breath test (section 2 of P.L.1981, c.512 (C.39:4-50.4a)), the bill revises the relevant penalty provisions as follows:

*For a first offense*, the court would order a license forfeiture until the person installed an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, which would then remain on the vehicle for not less than seven months or more than one year, unless the court was clearly convinced, after consideration on the record of a series of aggravating and mitigating factors as set forth in the bill, to instead order a license forfeiture of not less than seven months or more than one year (a forfeiture of not less than one year or more than two years would apply instead of device installation if the person did not own, lease, or operate a motor vehicle).

As above with respect to a drunk driving offense for a blood alcohol concentration of 0.10% or higher but less than 0.15%, if the person was ordered to install an ignition interlock device, the person could only reinstate the person's driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For any first offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other first offenses.

*For a second offense*, the bill increases the period of license forfeiture from the current two years to instead a period of not less than two years or more than four years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the two to four year forfeiture period and remain installed afterward for a period of not less than one year or more than

three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than four years or more than eight years.

A person who does not own, lease, or operate a motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least four years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above with respect to a first offense of refusing a breath test, a person who is a second offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For a second offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other second offenses.

*For a third or subsequent offense*, the bill increases the period of license forfeiture from the current 10 years to instead a period of not less than 10 years or more than 20 years. The court would order a license forfeiture until the person installed an ignition interlock device in each motor vehicle owned, leased, or operated by the person to be maintained during the 10 to 20 year period of forfeiture, and to remain installed afterwards for a period of not less than one year or more than three years, unless there was no such vehicle, in which case the person would receive a period of forfeiture of not less than 20 years or more than 40 years.

A third or subsequent offender who does not own, lease, or operate a motor vehicle may petition the court, upon proof of owning, leasing, or intending to operate a motor vehicle, to restore the person's driving privileges for the duration of the forfeiture period after at least 20 years of the period have passed, subject to the person maintaining the installation of an ignition interlock device in that vehicle.

As above with respect to a first or second offense of refusing a breath test, a person who is a third or subsequent offender ordered to install an ignition interlock device could only reinstate a driver's license through the Motor Vehicle Commission upon showing proof of such installation, and could have the installation period extended for one or more additional periods of 45 days, commencing upon the expiration of the current installation period, for attempting to operate the vehicle with a blood alcohol concentration of 0.05% or higher during the final 45 days of the installation period.

For a third or subsequent offense of refusing a breath test occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other third or subsequent offenses.

Ignition Interlock Device Installation; License Reinstatement

A person required to install an ignition interlock device would be required to provide the vendor of the device at the time of installation the blood alcohol concentration, or information on the refusal to submit to a breath test, on which the sentence was based. Every vendor of an ignition interlock device would be required to adopt real time data reporting of the blood alcohol concentration of a person required to install a device and the predetermined fail level of each device.

With respect to all cases for which a person has been ordered to install one or more ignition interlock devices, the court would notify the Chief Administrator of the Motor Vehicle Commission. The commission would thereafter require that the one or more devices be installed before the reinstatement of the person's driver's license. The commission would imprint a notation on the restored driver's license stating that the person could not operate a motor vehicle unless it is equipped with an ignition interlock device, and would enter this requirement in the person's driving record.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2089**

**STATE OF NEW JERSEY**

DATED: JUNE 18, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2089 (ACS).

This Assembly committee substitute for Assembly Bill No. 2089 (ACS) reduces the length of driver's license forfeiture for convictions of drunk driving and refusing to submit to a breathalyzer and increases the period of required ignition interlock device (IID) installation for these offenses. The committee substitute also requires the license of a drunk driver who attests to not owning, leasing, or operating a motor vehicle to be forfeited during the required period of IID installation. The committee substitute further imposes certain IID compliance requirements to be met before an IID may be removed after the required period of installation. Finally, the committee substitute removes enhanced penalties for drunk driving and refusal convictions occurring in a school zone.

Drunk Driving

For a first offense of drunk driving, the offender's driver's license is to be forfeited until an IID is installed in one motor vehicle owned, leased, or principally operated by the offender, whichever the person most often operates. If the offender's blood alcohol concentration (BAC) was 0.08% or higher, but less than 0.10%, or the offender was convicted of operating a motor vehicle while under the influence of intoxicating liquor without a BAC reading, the current three-month license forfeiture is replaced with mandatory IID installation for three months; if the offender's BAC was 0.10% or higher, but less than 0.15%, the current license forfeiture of seven months to one year is replaced with the requirement that an IID is to be installed for seven months to one year; if the offender's BAC was 0.15% or more, the current license forfeiture of seven months to one year is replaced by four to six months license forfeiture and an IID is to be installed during the period of license forfeiture, as well as for not less than nine months or more than 15 months after the period of license forfeiture.

For second drunk driving offenses, the current driver's license forfeiture is two years and for third and subsequent offenses, the forfeiture is for 10 years; the IID requirement is for one to three years.

Under the substitute, license forfeiture is reduced to one to two years for second time offenders and to eight years for third and subsequent offenders; the requirement that IID be installed in one motor vehicle owned, leased, or principally operated by the offender, whichever the person most often operates, is increased to two to four years.

The license forfeiture period for first-time offenders of driving under the influence of drugs is not changed by the substitute. Further, installation of an IID is not required for first offenses of drugged driving.

The provision establishing enhanced penalties for a conviction of driving while intoxicated in a school zone is removed.

#### Refusing a Breath Test

For a first offense, the committee substitute requires the offender's license to be forfeited until the person installs an IID in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, rather than requiring the current seven months to one year. The IID is to remain installed during the license forfeiture and for the following nine to 15 months.

For a second offense, the bill decreases the period of license forfeiture from the current two years to one to two years. The offender's license is to be forfeited until an IID is installed and is to remain installed for two to four years.

For a third or subsequent offense, the committee substitute decreases the license forfeiture from the current 10 years to eight years. An IID would be required during the license forfeiture and remain installed for two to four years.

The provision establishing enhanced penalties for a conviction of refusing to submit to a breathalyzer occurring in a school zone is removed.

#### Ignition Interlock Device Installation

The committee substitute requires drunk driving offenders to provide the court with information identifying the motor vehicle on which an ignition interlock is to be installed, as well as any other information deemed relevant by the court, such as the offender's complete name, address, date of birth, eye color, and gender. An offender who does not own, lease, or operate a motor vehicle is required to attest to this to the court. An offender who falsely attests to the court may be prosecuted for perjury. If an offender subsequently purchases, leases, or gains access to a motor vehicle to operate, the offender is required to immediately notify the court and install an ignition interlock device in that vehicle.

The driver's license of an offender who attests to not owning, leasing, or operating a motor vehicle is to be forfeited for the required ignition interlock installation period.

In order to remove an IID after the required installation period, the IID vendor is to submit a certification to the Chief Administrator of the New Jersey Motor Vehicle Commission that during the final 30 days of the installation period there was not more than one failure to take or pass a test with a blood alcohol concentration of 0.08 percent or higher unless a re-test conducted within five minutes of the initial test indicates a blood alcohol concentration of less than 0.08 percent; and the offender complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device. If these requirements are not satisfied, the vendor is required to forward the violation information to the chief administrator and the court. The court has the discretion to either extend the period of IID installation for up to 90 days or issue the certification to the chief administrator.

The committee substitute requires the Chief Administrator of the New Jersey Motor Vehicle Commission to semiannually issue a summary report containing information on drunk driving offenders required to install an ignition interlock device. The information is to include: the total number of offenders ordered to install an ignition interlock categorized by the offender's number of convictions and place of residence; whether the offender qualifies for a reduced fee for monthly rental of an ignition interlock device categorized by family income exceeding 100 percent or 149 percent of the federal poverty level; the percentage these offenders constitute of the total number of offenders; and the number of these offenders that reside in each county; the average length of time an offender maintains installation of the device categorized by the offender's number of convictions; and the percent of offenders who remove the ignition interlock device because they are unable to afford continued installation.

The committee substitute is effective three months after enactment and expires four years following the effective date.

FISCAL IMPACT:

The Office of Legislative Services finds that the bill will likely result in a small indeterminate increase in Judiciary Branch costs related to additional court time required to process these cases. The Motor Vehicle Commission will incur staffing expenses to monitor and verify the installation of interlock devices. The MVC may also incur limited costs to produce new informational materials reflecting the new structure of the penalties. Finally, the State may realize an indeterminate reduction in revenue due to the bill's removal of enhanced penalties for violations occurring on or near a school property.



**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 2089**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 25, 2019

**SUMMARY**

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

**Type of Impact:** Annual State expenditure increases; annual State revenue decreases

**Agencies Affected:** New Jersey Motor Vehicle Commission

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Expenditure Increase</b>		Indeterminate	
<b>State Revenue Decrease</b>		Indeterminate	

- The Office of Legislative Services (OLS) finds that the expanded use of ignition interlock device (IID) installations for drunk driving offenses will result in increased annual State expenditures. The Motor Vehicle Commission (MVC) will incur additional expenses to monitor and verify IID installations and for the processing of certain breathalyzer results. The MVC may also incur limited costs to produce informational materials reflecting the new penalties.
- The State will realize a reduction in revenue from the removal of enhanced penalty provisions for violations occurring on or near school property, which carry larger monetary fines.

**BILL DESCRIPTION**

This bill revises the penalty provisions for various drunk driving offenses. In particular, it reduces the length of driver’s license forfeiture for convictions of drunk driving and refusing to submit to a breathalyzer and increases the period of required IID installation for these offenses.



For drunk driving offenses and for refusing to submit to a breathalyzer test that involve a person's blood alcohol concentration (BAC) of 0.08% or higher, the court would order a license forfeiture until the person installs an IID on the vehicle, which would then remain on the vehicle for varying periods of time depending upon the BAC level and how many times the offense has occurred.

After the installation of the IID, the person's driver's license would be restored upon showing proof of such installation, and the MVC would imprint a notation concerning driving with the device on the person's license.

For offenses occurring on or near a school property or crossing, the bill would eliminate any enhanced penalties currently available under the law and instead treat such an offense the same as all other comparable offenses.

A person required to install an IID would be required to provide the vendor of the device at the time of installation the BAC, or information on the refusal to submit to a breath test, on which the sentence was based. Every vendor of an IID would be required to adopt real time data reporting of the BAC of a person required to install a device and the predetermined fail level of each device.

In order to remove an IID after the required installation period, the IID vendor is to submit a certification to the Chief Administrator of the MVC that during the final 30 days of the installation period there was not more than one failure to take or pass a test with a blood alcohol concentration of 0.08 percent or higher unless a re-test conducted within five minutes of the initial test indicates a BAC of less than 0.08 percent; and the offender complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device. If these requirements are not satisfied, the vendor is required to forward the violation information to the chief administrator and the court. The court has the discretion to either extend the period of IID installation for up to 90 days or issue the certification to the chief administrator.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS finds that the expanded use of IID installations for drunk driving and refusing to submit to a breathalyzer offenses will result in indeterminate annual State expenditure increases and an indeterminate annual decrease in State revenues. There will likely be an additional burden on customer service staff at the MVC to serve those requiring restricted licenses and to monitor and verify the installation and processing of IID installations. It is expected that the impact of that workload will likely not entail the hiring of additional employees for direct customer service at MVC locations. However, it may be necessary for the MVC to hire additional professional staff to administer the expanded IID installation program, including the verification of test results from the devices prior to their removal and reviewing documentation from device vendors. Additionally, there may be recurring costs for program materials related to the new enhanced use of IID installations under the bill, including pamphlets or brochures explaining the new penalties based on intoxication level and number of offenses.

The State is also likely to realize reduced revenue based on the removal of certain enhanced penalties that are currently available for drunk driving offenses and failure to submit to a breathalyzer test that occur on or near school property. Some of these enhanced penalties include larger monetary fines, which would no longer be imposed.

*Section: Authorities, Utilities, Transportation and Communications*

*Analyst: Patrick Brennan  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# Governor Murphy Signs Legislation Expanding Use of Ignition Interlock Devices

08/23/2019

**TRENTON** - Governor Phil Murphy today enacted a new law expanding the use of ignition interlock device for those convicted of drunk driving offenses and of refusing breath tests. The legislation (S824) also reduces the length of license suspension and forfeitures for these offenses.

“Expanding the use of ignition interlock devices is just common sense,” **said Governor Phil Murphy**. “We must deter drunk driving without negatively impacting individuals’ ability to take care of themselves or their families. License suspensions are an imperfect tool for accomplishing both aims, as they do not stop drunk drivers from getting behind the wheel and they can prevent ex-offenders from supporting their livelihoods. In contrast, ignition interlock devices prevent drunk driving while allowing ex-offenders to support themselves and their families.”

“Ignition interlock systems have saved hundreds of lives and significantly decreased crashes due to impaired driving,” **said New Jersey Motor Vehicle Commission Chair and Chief Administrator Sue Fulton**. “Safety is at the center of everything we do here at NJMVC, so we support installing these systems as a strong, effective alternative to driver suspensions.”

This measure requires that first time offenders install ignition interlock devices (IID), at a cost to the offender. IIDs and suspensions from then on are based upon the severity of the offense.

The legislation further requires the Chief Administrator of the New Jersey Motor Vehicle Commission to issue a summary report containing information on drunk driving offenders that are required to install an IID, on a semi-annual basis.

Primary sponsors of the legislation include Senators Nicholas Scutari and Joseph Lagana, and Assemblymembers Joann Downey and Daniel Benson.

“Drunk driving is a serious issue in New Jersey,” **said Senator Nicholas Scutari**. “Having been a prosecutor for 16 years, my experience is that the use of ignition interlocks is the best way to safe guard our roads while also allowing minor offenders to continue their employment.”

“The numbers show that requiring the installation of an ignition interlock device is the most effective way to prevent repeat offenses and ultimately reduce deaths caused by drunk driving,” **said Senator Joseph Lagana**. “You simply cannot drive drunk with one in your vehicle because the engine will not even start if you are intoxicated. This law will make our roads safer to travel for all of our residents.

“There is strong evidence that interlock devices are effective in reducing re-arrest rates while they are installed in offenders’ vehicles. A more widespread and sustained use of interlocks among people arrested for DUI could have a substantial impact on reducing alcohol-related crashes,” **said Assemblywoman Joann Downey**. “Traditionally, the penalty for intoxicated driving has been a suspension of the driver’s license, but in the absence of a driver’s license, the individual may not be able to get to work, or, if their job requires driving, perform their duties. This can lead to the loss of employment, which can in turn lead to emotional consequences such as depression, thereby encouraging more of the substance abuse that led to the penalty in the first place.”

“This law is an important step in improving safety by updating the definition of impaired driving for the realities of today’s opioid crisis and the potential for expansion of marijuana access, whether medicinal or commercial,” **said Assemblyman Dan Benson**. “Also, by using alternatives to suspensions, such as interlock devices, we can reduce opportunities for drunk driving by offenders who may be tempted to drive while on suspension.”

“This law represents the most significant DWI reform in New Jersey in nearly a decade,” **said MADD National President Helen Witty, whose 16-year-old daughter, Helen Marie, was killed by a drunk driver while rollerblading on a bike path after school**. “We are so grateful to Governor Murphy, Senator Scutari, Assemblywoman Downey and all of the lawmakers, volunteers, staff and traffic safety partners who have worked for

years to add New Jersey to a growing list of states that recognize all-offender laws like this one save lives.”

“I want to thank Governor Murphy for signing this law that will save lives. I was nearly killed by a drunk driver during my senior year at The College of New Jersey, and I know the anguish this violent, preventable crime inflicts on survivors and family members,” **said Steven Benvenisti, Esq., Partner at Davis, Saperstein & Salomon, a former MADD National Board Member, longtime MADD New Jersey volunteer, who has worked for years to pass an all-offender interlock law in New Jersey.** “In 2018, ignition interlocks kept 13,500 drunk drivers off our roads. Now this lifesaving technology will be used to its fullest potential.”