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No

P.L. 2003, CHAPTER 314, *approved January 20, 2004*  
Assembly, No. 682 (*Second Reprint*)

1 AN ACT concerning drunk driving <sup>1</sup>[and],<sup>1</sup> amending R.S.39:4-50  
2 <sup>1</sup>and P.L.1992, c.189, and supplementing Title 39 of the Revised  
3 Statutes<sup>1</sup>.

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

7  
8 <sup>1</sup>1. (New section) This act shall be known and may be cited as  
9 "Florence's Law."<sup>1</sup>

10

11 <sup>1</sup>[1.]<sup>2</sup> R.S.39:4-50 is amended to read as follows:

12 39:4-50. (a) Except as provided in subsection (g) of this section,  
13 a person who operates a motor vehicle while under the influence of  
14 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,  
15 or operates a motor vehicle with a blood alcohol concentration of  
16 ~~[0.10%]~~ 0.08% or more by weight of alcohol in the defendant's blood  
17 or permits another person who is under the influence of intoxicating  
18 liquor, narcotic, hallucinogenic or habit-producing drug to operate a  
19 motor vehicle owned by him or in his custody or control or permits  
20 another to operate a motor vehicle with a blood alcohol concentration  
21 of ~~[0.10%]~~ 0.08% or more by weight of alcohol in the defendant's  
22 blood shall be subject:

23 (1) For the first offense<sup>1</sup> ~~[,]~~:

24 (i) if the person's blood alcohol concentration is <sup>2</sup>0.08% or higher  
25 but<sup>2</sup> less than 0.10%, <sup>2</sup>or the person operates a motor vehicle while  
26 under the influence of intoxicating liquor, or the person permits  
27 another person who is under the influence of intoxicating liquor to  
28 operate a motor vehicle owned by him or in his custody or control or  
29 permits another person with a blood alcohol concentration of 0.08%  
30 or higher but less than 0.10% to operate a motor vehicle,<sup>2</sup> to a fine of  
31 not less than \$250 nor more than \$400 and a period of detainment of  
32 not less than 12 hours nor more than 48 hours spent during two  
33 consecutive days of not less than six hours each day and served as  
34 prescribed by the program requirements of the Intoxicated Driver  
35 Resource Centers established under subsection (f) of this section and,  
36 in the discretion of the court, a term of imprisonment of not more than  
37 30 days and shall forthwith forfeit his right to operate a motor vehicle

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ALP committee amendments adopted December 11, 2003.

<sup>2</sup> Senate SLP committee amendments adopted January 8, 2004.

1 over the highways of this State for a period of three months:  
2 (ii) if the person's blood alcohol concentration is 0.10% or higher,  
3 <sup>2</sup>[but less than 0.16%]<sup>2</sup> or the person operates a motor vehicle while  
4 under the influence of narcotic, hallucinogenic or habit-producing  
5 drug,<sup>1</sup> <sup>2</sup>or the person permits another person who is under the  
6 influence of narcotic, hallucinogenic or habit-producing drug to  
7 operate a motor vehicle owned by him or in his custody or control, or  
8 permits another person with a blood alcohol concentration of 0.10%  
9 or more to operate a motor vehicle,<sup>2</sup> to a fine of not less than  
10 <sup>2</sup>[\$250.00] \$300<sup>2</sup> nor more than <sup>2</sup>[\$400.00] \$500<sup>2</sup> and a period of  
11 detainment of not less than 12 hours nor more than 48 hours spent  
12 during two consecutive days of not less than six hours each day and  
13 served as prescribed by the program requirements of the Intoxicated  
14 Driver Resource Centers established under subsection (f) of this  
15 section and, in the discretion of the court, a term of imprisonment of  
16 not more than 30 days and shall forthwith forfeit his right to operate  
17 a motor vehicle over the highways of this State for a period of not less  
18 than <sup>2</sup>[six] seven<sup>2</sup> months nor more than one year<sup>1</sup> [.];  
19 (iii) <sup>2</sup>[if the person's blood alcohol concentration is 0.16% or  
20 higher, to a fine of not less than \$400 nor more than \$600 and a period  
21 of detainment of not less than 12 hours nor more than 48 hours spent  
22 during two consecutive days of not less than six hours each day and  
23 served as prescribed by the program requirements of the Intoxicated  
24 Driver Resource Centers established under subsection (f) of this  
25 section and, in the discretion of the court, a term of imprisonment of  
26 not more than 30 days and shall forthwith forfeit his right to operate  
27 a motor vehicle over the highways of this State for a period of not less  
28 than nine months nor more than one year;  
29 (iv)<sup>1</sup>]<sup>2</sup> For a first offense, a person also shall be subject to the  
30 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).  
31 (2) For a second violation, a person shall be subject to a fine of not  
32 less than \$500.00 nor more than \$1,000.00, and shall be ordered by  
33 the court to perform community service for a period of 30 days, which  
34 shall be of such form and on such terms as the court shall deem  
35 appropriate under the circumstances, and shall be sentenced to  
36 imprisonment for a term of not less than 48 consecutive hours, which  
37 shall not be suspended or served on probation, nor more than 90 days,  
38 and shall forfeit his right to operate a motor vehicle over the highways  
39 of this State for a period of two years upon conviction, and, after the  
40 expiration of said period, he may make application to the <sup>1</sup>[Director  
41 of the Division of Motor Vehicles] <sup>2</sup>Chief<sup>2</sup> Administrator of the New  
42 Jersey Motor Vehicle Commission<sup>1</sup> for a license to operate a motor  
43 vehicle, which application may be granted at the discretion of the  
44 <sup>2</sup>[director] chief administrator<sup>2</sup>, consistent with subsection (b) of this  
45 section. For a second violation, a person also shall be required to  
46 install an ignition interlock device under the provisions of P.L.1999,

1 c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and  
2 registration plates revoked for two years under the provisions of  
3 section 2 of P.L.1995, c.286 (C.39:3-40.1).

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

16 As used in this section, the phrase "narcotic, hallucinogenic or  
17 habit-producing drug" includes an inhalant or other substance  
18 containing a chemical capable of releasing any toxic vapors or fumes  
19 for the purpose of inducing a condition of intoxication, such as any  
20 glue, cement or any other substance containing one or more of the  
21 following chemical compounds: acetone and acetate, amyl nitrite or  
22 amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite,  
23 butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite  
24 or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl  
25 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl  
26 alcohol, pentachlorophenol, petroleum ether, propyl <sup>1</sup>[nitrate] nitrite<sup>1</sup>  
27 or propyl nitrate or their isomers, toluene, toluol or xylene or any  
28 other chemical substance capable of causing a condition of  
29 intoxication, inebriation, excitement, stupefaction or the dulling of the  
30 brain or nervous system as a result of the inhalation of the fumes or  
31 vapors of such chemical substance.

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

38 A conviction of a violation of a law of a substantially similar nature  
39 in another jurisdiction, regardless of whether that jurisdiction is a  
40 signatory to the Interstate Driver License Compact pursuant to  
41 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction  
42 under this subsection unless the defendant can demonstrate by clear  
43 and convincing evidence that the conviction in the other jurisdiction  
44 was based exclusively upon a violation of a proscribed blood alcohol  
45 concentration of less than <sup>1</sup>[0.10%] 0.08%<sup>1</sup>.

46 If the driving privilege of any person is under revocation or

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

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

29 (b) A person convicted under this section must satisfy the  
30 screening, evaluation, referral, program and fee requirements of the  
31 Division of Alcoholism and Drug Abuse's Intoxicated Driving Program  
32 Unit, and of the Intoxicated Driver Resource Centers and a program  
33 of alcohol and drug education and highway safety, as prescribed by the  
34 <sup>1</sup>[Director of the Division of Motor Vehicles] <sup>2</sup>[administrator<sup>1</sup>] chief  
35 administrator<sup>2</sup>. The sentencing court shall inform the person  
36 convicted that failure to satisfy such requirements shall result in a  
37 mandatory two-day term of imprisonment in a county jail and a driver  
38 license revocation or suspension and continuation of revocation or  
39 suspension until such requirements are satisfied, unless stayed by court  
40 order in accordance with the Rules Governing the Courts of the State  
41 of New Jersey, or R.S.39:5-22. Upon sentencing, the court shall  
42 forward to the Division of Alcoholism and Drug Abuse's Intoxicated  
43 Driving Program Unit a copy of a person's conviction record. A fee  
44 of \$100.00 shall be payable to the Alcohol Education, Rehabilitation  
45 and Enforcement Fund established pursuant to section 3 of P.L.1983,  
46 c.531 (C.26:2B-32) to support the Intoxicated Driving Program Unit.

1 (c) Upon conviction of a violation of this section, the court shall  
2 collect forthwith the New Jersey driver's license or licenses of the  
3 person so convicted and forward such license or licenses to the  
4 <sup>1</sup>[Director of the Division of Motor Vehicles]<sup>2</sup> administrator<sup>1</sup> ] chief  
5 administrator<sup>2</sup>. The court shall inform the person convicted that if he  
6 is convicted of personally operating a motor vehicle during the period  
7 of license suspension imposed pursuant to subsection (a) of this  
8 section, he shall, upon conviction, be subject to the penalties  
9 established in R.S.39:3-40. The person convicted shall be informed  
10 orally and in writing. A person shall be required to acknowledge  
11 receipt of that written notice in writing. Failure to receive a written  
12 notice or failure to acknowledge in writing the receipt of a written  
13 notice shall not be a defense to a subsequent charge of a violation of  
14 R.S.39:3-40. In the event that a person convicted under this section  
15 is the holder of any out-of-State driver's license, the court shall not  
16 collect the license but shall notify forthwith the <sup>1</sup>[director]  
17 <sup>2</sup>administrator<sup>1</sup> ] chief administrator , <sup>2</sup>who shall, in turn, notify  
18 appropriate officials in the licensing jurisdiction. The court shall,  
19 however, revoke the nonresident's driving privilege to operate a motor  
20 vehicle in this State, in accordance with this section. Upon conviction  
21 of a violation of this section, the court shall notify the person  
22 convicted, orally and in writing, of the penalties for a second, third or  
23 subsequent violation of this section. A person shall be required to  
24 acknowledge receipt of that written notice in writing. Failure to  
25 receive a written notice or failure to acknowledge in writing the  
26 receipt of a written notice shall not be a defense to a subsequent  
27 charge of a violation of this section.

28 (d) The <sup>1</sup>[Director of the Division of Motor Vehicles]  
29 <sup>2</sup>administrator<sup>1</sup> ] chief administrator<sup>2</sup> shall promulgate rules and  
30 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
31 c.410 (C.52:14B-1 et seq.) in order to establish a program of alcohol  
32 education and highway safety, as prescribed by this act.

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

38 (f) The counties, in cooperation with the Division of Alcoholism  
39 and Drug Abuse and the <sup>1</sup>[Division of Motor Vehicles] commission<sup>1</sup>,  
40 but subject to the approval of the Division of Alcoholism and Drug  
41 Abuse, shall designate and establish on a county or regional basis  
42 Intoxicated Driver Resource Centers. These centers shall have the  
43 capability of serving as community treatment referral centers and as  
44 court monitors of a person's compliance with the ordered treatment,  
45 service alternative or community service. All centers established  
46 pursuant to this subsection shall be administered by a counselor

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

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

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

30 The centers shall conduct a program of alcohol and drug education  
31 and highway safety, as prescribed by the <sup>1</sup>[Director of the Division of  
32 Motor Vehicles] <sup>2</sup>[administrator<sup>1</sup>] chief administrator<sup>2</sup>.

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

37 (g) When a violation of this 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 school  
43 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, the



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

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

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

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

45 (1) a trauma center, critical care center or acute care hospital  
46 having basic emergency services, which receives victims of motor

1 vehicle accidents for the purpose of observing appropriate victims of  
2 drunk drivers and victims who are, themselves, drunk drivers;

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

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

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

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

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

37 (i) In addition to any other fine, fee, or other charge imposed  
38 pursuant to law, the court shall assess a person convicted of a  
39 violation of the provisions of this section a surcharge of \$100, of  
40 which amount \$50 shall be payable to the municipality in which the  
41 conviction was obtained and \$50 shall be payable to the Treasurer of  
42 the State of New Jersey for deposit into the General Fund.

43 (cf: P.L.2002, c.34, s.17)

1       <sup>1</sup>3. Section 1 of P.L.1992, c.189 (C.39:4-50.14) is amended to read  
2 as follows:

3       1. Any person under the legal age to purchase alcoholic beverages  
4 who operates a motor vehicle with a blood alcohol concentration of  
5 0.01% or more, but less than ~~[0.10%]~~ 0.08%, by weight of alcohol in  
6 his blood, shall forfeit his right to operate a motor vehicle over the  
7 highways of this State or shall be prohibited from obtaining a license  
8 to operate a motor vehicle in this State for a period of not less than 30  
9 or more than 90 days beginning on the date he becomes eligible to  
10 obtain a license or on the day of conviction, whichever is later, and  
11 shall perform community service for a period of not less than 15 or  
12 more than 30 days.

13       In addition, the person shall satisfy the program and fee  
14 requirements of an Intoxicated Driver Resource Center or participate  
15 in a program of alcohol education and highway safety as prescribed by  
16 the <sup>2</sup>[Director of the Division of Motor Vehicles] chief  
17 administrator<sup>2</sup>.

18       The penalties provided under the provisions of this section shall be  
19 in addition to the penalties which the court may impose under  
20 N.J.S.2C:33-15, R.S.33:1-81, R.S.39:4-50 or any other law.<sup>1</sup>  
21 (cf: P.L.1992, c.189, s.1)

22

23       <sup>1</sup>[2.] 4.<sup>1</sup> This act shall take effect immediately.

24

25

26

27

28       Reduces blood alcohol level at which a person is considered to be  
29 guilty of drunk driving from 0.10% to 0.08%.

# ASSEMBLY, No. 682

## STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Assemblywoman LORETTA WEINBERG**

**District 37 (Bergen)**

**Assemblyman MATT AHEARN**

**District 38 (Bergen)**

**Co-Sponsored by:**

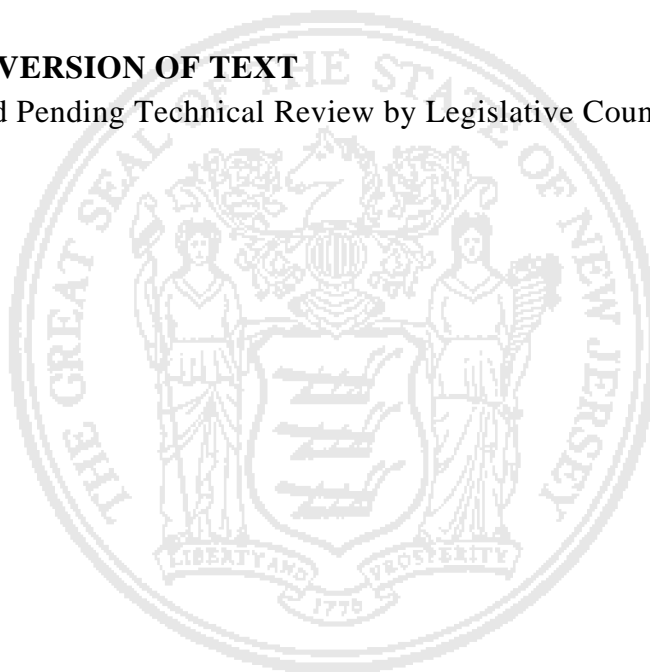
**Assemblywomen Previte, Greenstein, Assemblymen Barnes, Guear, Russo,  
Johnson and Diegnan**

**SYNOPSIS**

Reduces blood alcohol level at which a person is considered to be guilty of drunk driving from 0.10% to 0.08%.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 12/12/2003)**

1 AN ACT concerning drunk driving and amending R.S.39:4-50.

2

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

5

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

7 39:4-50. (a) A person who operates a motor vehicle while under  
8 the influence of intoxicating liquor, narcotic, hallucinogenic or  
9 habit-producing drug, or operates a motor vehicle with a blood alcohol  
10 concentration of ~~[0.10%]~~0.08% or more by weight of alcohol in the  
11 defendant's blood or permits another person who is under the influence  
12 of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug  
13 to operate a motor vehicle owned by him or in his custody or control  
14 or permits another to operate a motor vehicle with a blood alcohol  
15 concentration of ~~[0.10%]~~0.08% or more by weight of alcohol in the  
16 defendant's blood, shall be subject:

17 (1) For the first offense, to a fine of not less than \$250.00 nor  
18 more than \$400.00 and a period of detainment of not less than 12  
19 hours nor more than 48 hours spent during two consecutive days of  
20 not less than six hours each day and served as prescribed by the  
21 program requirements of the Intoxicated Driver Resource Centers  
22 established under subsection (f) of this section and, in the discretion  
23 of the court, a term of imprisonment of not more than 30 days and  
24 shall forthwith forfeit his right to operate a motor vehicle over the  
25 highways of this State for a period of not less than six months nor  
26 more than one year.

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

40 (3) For a third or subsequent violation, a person shall be subject to  
41 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term  
42 of not less than 180 days, except that the court may lower such term  
43 for each day, not exceeding 90 days, served performing community

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

**Matter underlined thus is new matter.**

1 service in such form and on such terms as the court shall deem  
2 appropriate under the circumstances and shall thereafter forfeit his  
3 right to operate a motor vehicle over the highways of this State for 10  
4 years.

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

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

33 (b) A person convicted under this section must satisfy the  
34 screening, evaluation, referral, program and fee requirements of the  
35 Division of Alcoholism's Intoxicated Driving Programs Unit, and of  
36 the Intoxicated Driver Resource Centers and a program of alcohol  
37 education and highway safety, as prescribed by the Director of the  
38 Division of Motor Vehicles. The sentencing court shall inform the  
39 person convicted that failure to satisfy such requirements shall result  
40 in a mandatory two day term of imprisonment in a county jail and a  
41 driver license revocation or suspension and continuation of revocation  
42 or suspension until such requirements are satisfied, unless stayed by  
43 court order in accordance with Rule 7:8-2 of the N.J. Court Rules,  
44 1969, or R.S.39:5-22. Upon sentencing, the court shall forward to the  
45 Bureau of Alcohol Countermeasures within the Intoxicated Driving  
46 Programs Unit a copy of a person's conviction record. A fee of \$80.00

1 shall be payable to the Alcohol Education, Rehabilitation and  
2 Enforcement Fund established pursuant to section 3 of P.L.1983,  
3 c.531 (C.26:2B-32) to support the Intoxicated Driving Programs Unit.

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

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

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

39 (f) The counties, in cooperation with the Division of Alcoholism  
40 and the Division of Motor Vehicles, but subject to the approval of the  
41 Division of Alcoholism, shall designate and establish on a county or  
42 regional basis Intoxicated Driver Resource Centers. These centers  
43 shall have the capability of serving as community treatment referral  
44 centers and as court monitors of a person's compliance with the  
45 ordered treatment, service alternative or community service. All  
46 centers established pursuant to this subsection shall be administered by

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

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

17 Required detention periods at the Intoxicated Driver Resource  
18 Centers shall be determined according to the individual treatment  
19 classification assigned by the Bureau of Alcohol Countermeasures.  
20 Upon attendance at an Intoxicated Driver Resource Center, a person  
21 shall be assessed a per diem fee of \$50.00 for the first offender  
22 program or a per diem fee of \$75.00 for the second offender program,  
23 as appropriate.

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

27 The Director of the Division of Alcoholism shall adopt rules and  
28 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
29 c.410 (C.52:14B-1 et seq.), in order to effectuate the purposes of this  
30 subsection.

31 (cf: P.L.1993, c.296, s.6)

32

33 2. This act shall take effect immediately.

34

35

36

#### STATEMENT

37

38 Currently, a person who drives with a blood alcohol level of 0.10%  
39 or greater is considered guilty of drunk driving. This bill would  
40 reduce the level of blood alcohol content that determines drunken  
41 driving to 0.08%.



[Corrected Copy]

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 682**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 11, 2003

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 682.

Currently, a person who drives with a blood alcohol concentration (BAC) of 0.10% or higher is considered guilty of drunk driving. This bill would reduce the BAC that constitutes drunk driving to 0.08%. The federal government requires each state to establish driving with a BAC of 0.08% or higher as a crime. Any state that fails to pass such a law will lose a percentage of its federal highway funding.

The committee amended the bill to impose penalties for a first offense of drunk driving based on the BAC of the offender. Under the bill as amended, an offender whose BAC is less than 0.10% would be fined not less than \$250 or more than \$400 and his license would be suspended for three months. If the person's BAC is 0.10% or higher, but less than 0.16%, the fine imposed would be \$250 to \$400 and the license suspension would be for not less than six months nor more than one year. If the person's BAC is 0.16% or higher, the fine would be between \$400 and \$600 and the license suspension would be for nine months to one year.

The bill also was amended to bring the law imposing penalties on underage persons who operate motor vehicles after consuming alcohol into conformity with the new 0.08% standard.

At the sponsor's request, the law will be known as "Florence's Law" in honor of the late Florence Nass- the mother of a son killed by a drunken driver, the founder of EndDwi and the constituent who originally requested that the bill be introduced.

The committee also made technical amendments.

COMMITTEE AMENDMENTS:

(1) An amendment to insert a new section naming the law "Florence's Law."

(2) An amendment to impose penalties based on the BAC of the offender.

(3) An amendment to insert a new section which changes 0.10% to 0.08% in section 1 of P.L. 1992, c.189 (C.39:4-50.14). The purpose of this amendment is to bring the law concerning the penalties for underage persons who consume alcohol and operate motor vehicles into conformity with the new 0.08% BAC standard.

(4) A technical amendment to bring the language of R.S.39:4-50 into conformity with section 17 of P.L.2002, c.34.

(5) A technical amendment to correct a misspelling and update references to the New Jersey Motor Vehicle Commission.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 682**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 8, 2004

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Assembly Bill No. 682 (1R).

Currently, a person who drives with a blood alcohol concentration (BAC) of 0.10% or higher is considered guilty of drunk driving. This bill would reduce the BAC that constitutes drunk driving to 0.08%. The federal government has statutorily mandated that each state establish driving with a BAC of 0.08% or higher as its *per se* drunk driving offense. Any state that fails to pass such a law will lose a percentage of its federal highway funding.

As amended and released by the committee, the bill revises certain penalties for a first offense of drunk driving.

Under the bill's provisions, if the offender's BAC is 0.08% or higher but less than 0.10%, or if the offender operates a motor vehicle under the influence of intoxicating liquor, or if the offender permits another person under the influence of intoxicating liquor or with a BAC of 0.08% to 0.10% to operate a motor vehicle, the fine imposed would be \$250 to \$400 and the license suspension would be for three months.

If the offender's BAC is 0.10% or higher, or if the offender operates a motor vehicle while under the influence of narcotic, hallucinogenic or habit-producing drug, or the offender permits another person who is under the influence of narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle, or permits another person with a BAC of 0.10% or higher to operate a motor vehicle, the fine imposed would be \$300 to \$500 and the license suspension would be for not less than seven months or more than one year.

The bill also brings the law imposing penalties on underage persons who operate motor vehicles after consuming alcohol into conformity with the new 0.08% standard.

At the sponsor's request, the law will be known as "Florence's

Law" in honor of the late Florence Nass- the mother of a son killed by a drunken driver, the founder of EndDwi and the constituent who originally requested that the bill be introduced.

As amended and released by the committee, this bill is identical to the Senate Committee Substitute for Senate Bill Nos. 492 and 921, which also was released by the committee on this same date.

# SENATE, No. 492

## STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator RICHARD J. CODEY**

**District 27 (Essex)**

**Co-Sponsored by:**

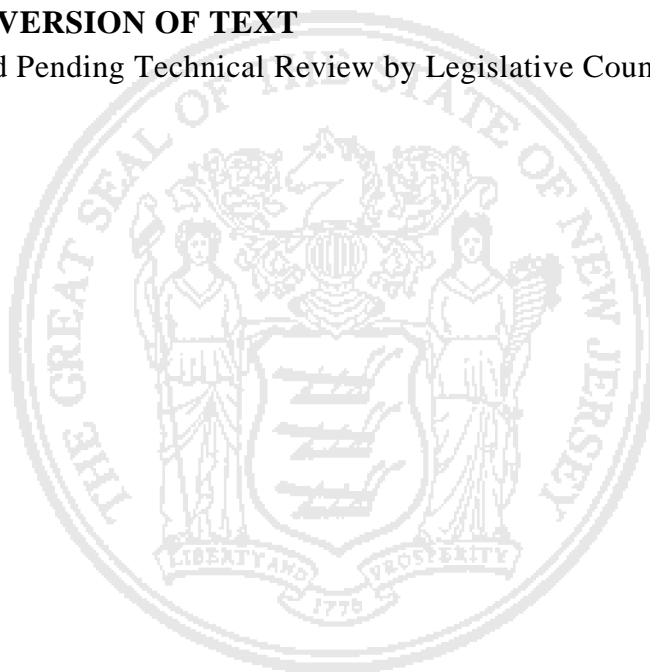
**Senators Adler, Furnari, Buono, Bennett and Lesniak**

**SYNOPSIS**

Reduces blood alcohol level at which a person is considered to be guilty of drunk driving from 0.10% to 0.08%

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/11/2003)**

S492 VITALE, CODEY

2

1 AN ACT concerning drunk driving and amending R.S.39:4-50.

2

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

5

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

7 39:4-50. (a) Except as provided in subsection (g) of this section, a  
8 person who operates a motor vehicle while under the influence of  
9 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,  
10 or operates a motor vehicle with a blood alcohol concentration of  
11 **[0.10%]** 0.08% or more by weight of alcohol in the defendant's blood  
12 or permits another person who is under the influence of intoxicating  
13 liquor, narcotic, hallucinogenic or habit-producing drug to operate a  
14 motor vehicle owned by him or in his custody or control or permits  
15 another to operate a motor vehicle with a blood alcohol concentration  
16 of **[0.10%]** 0.08% or more by weight of alcohol in the defendant's  
17 blood, shall be subject:

18 (1) For the first offense, to a fine of not less than \$250.00 nor  
19 more than \$400.00 and a period of detainment of not less than 12  
20 hours nor more than 48 hours spent during two consecutive days of  
21 not less than six hours each day and served as prescribed by the  
22 program requirements of the Intoxicated Driver Resource Centers  
23 established under subsection (f) of this section and, in the discretion  
24 of the court, a term of imprisonment of not more than 30 days and  
25 shall forthwith forfeit his right to operate a motor vehicle over the  
26 highways of this State for a period of not less than six months nor  
27 more than one year.

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

41 (3) For a third or subsequent violation, a person shall be subject to  
42 a fine of \$1,000.00, and shall be sentenced to imprisonment for a term  
43 of not less than 180 days, except that the court may lower such term

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

**Matter underlined thus is new matter.**

1 for each day, not exceeding 90 days, served performing community  
2 service in such form and on such terms as the court shall deem  
3 appropriate under the circumstances and shall thereafter forfeit his  
4 right to operate a motor vehicle over the highways of this State for 10  
5 years.

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

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

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

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

1 10 years after the second offense, the court shall treat the third  
2 conviction as a second offense for sentencing purposes.

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

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

46 (d) The Director of the Division of Motor Vehicles shall



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

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

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

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

36 Required detention periods at the Intoxicated Driver Resource  
37 Centers shall be determined according to the individual treatment  
38 classification assigned by the Intoxicated Driving Program Unit. Upon  
39 attendance at an Intoxicated Driver Resource Center, a person shall be  
40 required to pay a per diem fee of \$75.00 for the first offender program  
41 or a per diem fee of \$100.00 for the second offender program, as  
42 appropriate. Any increases in the per diem fees after the first full year  
43 shall be determined pursuant to rules and regulations adopted by the  
44 Commissioner of Health and Senior Services in consultation with the  
45 Governor's Council on Alcoholism and Drug Abuse pursuant to the

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

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

6 The Commissioner of Health and Senior 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 school  
16 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, the  
20 convicted person shall: for a first offense, be fined not less than \$500  
21 or more than \$800, be imprisoned for not more than 60 days and have  
22 his license to operate a motor vehicle suspended for a period of not  
23 less than one year or more than two years; for a second offense, be  
24 fined not less than \$1,000 or more than \$2,000, perform community  
25 service for a period of 60 days, be imprisoned for not less than 96  
26 consecutive hours, which shall not be suspended or served on  
27 probation, nor more than 180 days, except that the court may lower  
28 such term for each day, not exceeding 90 days, served performing  
29 community service in such form and on such terms as the court shall  
30 deem appropriate under the circumstances and have his license to  
31 operate a motor vehicle suspended for a period of not less than four  
32 years; and, for a third offense, be fined \$2,000, imprisoned for 180  
33 days and have his license to operate a motor vehicle suspended for a  
34 period of 20 years; the period of license suspension shall commence  
35 upon the completion of any prison sentence imposed upon that person.

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

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

1 were present on the school property or crossing zone at the time of the  
2 offense or that the school was not in session.

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

8

9 2. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 Currently, a person who drives with a blood alcohol level of 0.10%  
15 or greater is considered guilty of drunk driving. This bill would  
16 reduce the level of blood alcohol content that determines drunken  
17 driving to 0.08%.

**SENATE, No. 921**

---

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED FEBRUARY 11, 2002

**Sponsored by:**  
**Senator JOSEPH CONIGLIO**  
**District 38 (Bergen)**

**SYNOPSIS**

Reduces blood alcohol concentration level for drunk driving conviction to 0.08% and provides enhanced penalties for certain drunk driving offenses.

**CURRENT VERSION OF TEXT**

As introduced.



S921 CONIGLIO

2

1 AN ACT concerning driving under the influence and amending  
2 R.S.39:4-50.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S.39:4-50 is amended to read as follows:

8 39:4-50. (a) Except as provided in subsection (g) of this section,  
9 a person who operates a motor vehicle while under the influence of  
10 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,  
11 or operates a motor vehicle with a blood alcohol concentration of  
12 **[0.10%]** 0.08% or more by weight of alcohol in the defendant's blood  
13 or permits another person who is under the influence of intoxicating  
14 liquor, narcotic, hallucinogenic or habit-producing drug to operate a  
15 motor vehicle owned by him or in his custody or control or permits  
16 another to operate a motor vehicle with a blood alcohol concentration  
17 of **[0.10%]** 0.08% or more by weight of alcohol in the defendant's  
18 blood shall be subject:

19 (1) For the first offense, if the person's blood alcohol concentration  
20 is less than 0.15%, to a fine of not less than \$250.00 nor more than  
21 \$400.00 and **[a period of detainment of not less than 12 hours nor**  
22 **more than 48 hours spent during two consecutive days of not less than**  
23 **six hours each day and served as prescribed by the program**  
24 **requirements of the Intoxicated Driver Resource Centers established**  
25 **under subsection (f) of this section and]**, in the discretion of the court,  
26 a term of imprisonment of not more than 30 days and shall forthwith  
27 forfeit his right to operate a motor vehicle over the highways of this  
28 State for a period of not less than six months nor more than one year.  
29 If the person's blood alcohol concentration is 0.15% or more, the  
30 person shall be fined \$500 and sentenced to a term of imprisonment of  
31 not less than 30 days or more than 60 days, and shall forfeit the right  
32 to operate a motor vehicle over the highways of this State for a period  
33 of one year. For a first offense, a person also shall be subject to the  
34 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.), and shall be  
35 detained for not less than 12 hours or more than 48 hours during two  
36 consecutive days of not less than six hours each day served as  
37 prescribed by the program requirements of the Intoxicated Driver  
38 Resource Centers established under subsection (f) of this section.

39 (2) For a second violation **[a]**, if the person's blood alcohol  
40 concentration is less than 0.15%, the person shall be subject to a fine  
41 of not less than \$500.00 nor more than \$1,000.00, **[and shall be**  
42 **ordered by the court to perform community service for a period of 30**

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

**Matter underlined thus is new matter.**

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1 days, which shall be of such form and on such terms as the court shall  
2 deem appropriate under the circumstances,] and shall be sentenced to  
3 imprisonment for a term of not less than 48 consecutive hours, which  
4 shall not be suspended or served on probation, nor more than 90 days,  
5 and shall forfeit his right to operate a motor vehicle over the highways  
6 of this State for a period of two years upon conviction [, and, after].  
7 If the person's blood alcohol concentration is 0.15% or more, the  
8 person shall be fined \$1,500 and sentenced to a term of imprisonment  
9 of not less than 60 and not more than 120 days, of which 60 days shall  
10 not be suspended or served on probation, and shall forfeit the right to  
11 operate a motor vehicle over the highways of this State for a period of  
12 five years. After the expiration of [said] the period of suspension,  
13 [he] the person may make application to the Director of the Division  
14 of Motor Vehicles for a license to operate a motor vehicle, which  
15 application may be granted at the discretion of the director, consistent  
16 with subsection (b) of this section. For a second violation, a person  
17 shall be ordered by the court to perform community service for a  
18 period of 30 days, which shall be of such form and on such terms as  
19 the court shall deem appropriate under the circumstances, and also  
20 shall be required to install an ignition interlock device under the  
21 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his  
22 registration certificate and registration plates revoked for two years  
23 under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

24 (3) For a third or subsequent violation [a], if the person's blood  
25 alcohol content is less than 0.15%, the person shall be subject to a fine  
26 of \$1,000.00, and shall be sentenced to imprisonment for a term of not  
27 less than 180 days, except that the court may lower such term for each  
28 day, not exceeding 90 days, served performing community service in  
29 such form and on such terms as the court shall deem appropriate under  
30 the circumstances and shall thereafter forfeit his right to operate a  
31 motor vehicle over the highways of this State for 10 years. If the  
32 person's blood alcohol concentration is 0.15% or more, the person  
33 shall be fined \$2,000 and sentenced to a term of imprisonment of  
34 180 days, which the court shall not lower as provided in this paragraph  
35 for performance of community service, and shall forfeit the right to  
36 operate a motor vehicle over the highways of this State for a period of  
37 15 years. For a third or subsequent violation, a person also shall be  
38 required to install an ignition interlock device under the provisions of  
39 P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration  
40 certificate and registration plates revoked for 10 years under the  
41 provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

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 fumes  
45 for the purpose of inducing a condition of intoxication, such as any  
46 glue, cement or any other substance containing one or more of the

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

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

18 A conviction of a violation of a law of a substantially similar nature  
19 in another jurisdiction, regardless of whether that jurisdiction is a  
20 signatory to the Interstate Driver License Compact pursuant to  
21 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction  
22 under this subsection unless the defendant can demonstrate by clear  
23 and convincing evidence that the conviction in the other jurisdiction  
24 was based exclusively upon a violation of a proscribed blood alcohol  
25 concentration of less than 0.10%.

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

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

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

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



1 section, the court shall notify the person convicted, orally and in  
2 writing, of the penalties for a second, third or subsequent violation of  
3 this section. A person shall be required to acknowledge receipt of that  
4 written notice in writing. Failure to receive a written notice or failure  
5 to acknowledge in writing the receipt of a written notice shall not be  
6 a defense to a subsequent charge of a violation of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of this subsection.

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

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

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

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

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

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

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

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

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

16 (cf: P.L.2001, c.12, s.1)

17

18 2. This act shall take effect immediately.

19

20

21

#### STATEMENT

22

23 This bill would reduce the level of blood alcohol concentration  
24 (BAC) at which a person is considered to be legally intoxicated under  
25 the State's drunk driving law (R.S.39:4-50) to 0.08%. The legal level  
26 of intoxication under current law is 0.10%.

27 A new federal law penalizes states which have a drunk driving BAC  
28 threshold greater than 0.08%. The United States Department of  
29 Transportation will withhold from states that fail to comply with this  
30 requirement two percent of federal aid highway program funds in  
31 FY2004, four percent in FY2005, six percent in FY2006 and eight  
32 percent in FY2007. Withheld funds will be restored to states that  
33 comply by the end of FY2007.

34 The bill also provides for more severe penalties under R.S.39:4-50  
35 if the offender's blood alcohol concentration (BAC) is 0.15% or more.

36 For a first violation, an offender is currently subject to a fine of  
37 \$250 to \$400 and a period of detainment of 12 to 48 hours at an  
38 Intoxicated Driver Resource Center and, in the discretion of the court,  
39 a term of imprisonment of up to 30 days. In addition, the offender's  
40 driver's license is suspended for six months to one year. Under this  
41 bill, if a first offender's BAC is 0.15% or more, he would be subject to  
42 a fine of \$500 and a term of imprisonment of 30 to 60 days. The  
43 offender also would lose his driver's license for one year.

44 Currently, for a second violation, an offender is subject to a fine of  
45 \$500 to \$1,000, and must be ordered by the court to perform  
46 community service for a period of 30 days. The offender also is

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10

1 sentenced to imprisonment for a term of not less than 48 consecutive  
2 hours, which cannot be suspended or served on probation, or more  
3 than 90 days. In addition, his driver's license is suspended for two  
4 years. Under this bill, if the BAC of a second offender is 0.15% or  
5 more, in addition to the community service requirement, he would be  
6 subject to a fine of \$1,500 and a term of imprisonment of 60 to  
7 120 days, of which 60 days cannot be suspended or served on  
8 probation. Also, his driver's license would be suspended for five years.

9 For a third or subsequent violation, an offender currently is subject  
10 to a fine of \$1,000 and imprisonment for not less than 180 days, which  
11 may be reduced for each day of community service performed but not  
12 exceeding 90 days. In addition, the offender's driver's license is  
13 suspended for 10 years. Under this bill, if the BAC of a third offender  
14 is 0.15% or more, he would be subject to a fine of \$2,000 and a term  
15 of imprisonment of 180 days, which the court could not reduce. The  
16 offender's driver's license would be suspended for 15 years.

17 An offender whose BAC is 0.15% or greater would continue to be  
18 subject to all other applicable penalties, such as fulfilling the  
19 requirements of the Intoxicated Driver Resource Center and  
20 installation of an ignition interlock device.

21 The Senate Task Force on Alcohol Related Motor Vehicle  
22 Accidents and Fatalities stated in its 1998 report that there is a  
23 dramatic increase in crash and fatality rates for drivers with a BAC of  
24 0.15% or more.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, Nos. 492 and 921**

**STATE OF NEW JERSEY**

DATED: JANUARY 8, 2004

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 492 and 921.

Currently, a person who drives with a blood alcohol concentration (BAC) of 0.10% or higher is considered guilty of drunk driving. This substitute would reduce the BAC that constitutes drunk driving to 0.08%. The federal government has statutorily mandated that each state establish driving with a BAC of 0.08% or higher as its *per se* drunk driving offense. Any state that fails to pass such a law will lose a percentage of its federal highway funding.

The committee substitute revises certain penalties for a first offense of drunk driving.

Under the committee substitute, if the offender's BAC is 0.08% or higher but less than 0.10%, or if the offender operates a motor vehicle under the influence of intoxicating liquor, or if the offender permits another person under the influence of intoxicating liquor or with a BAC of 0.08% to 0.10% to operate a motor vehicle, the fine imposed would be \$250 to \$400 and the license suspension would be for three months.

If the offender's BAC is 0.10% or higher, or if the offender operates a motor vehicle while under the influence of narcotic, hallucinogenic or habit-producing drug, or the offender permits another person who is under the influence of narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle, or permits another person with a BAC of 0.10% or higher to operate a motor vehicle, the fine imposed would be \$300 to \$500 and the license suspension would be for not less than seven months or more than one year.

The committee substitute also brings the law imposing penalties on underage persons who operate motor vehicles after consuming alcohol into conformity with the new 0.08% standard.

At the Assembly sponsor's request, the law will be known as "Florence's Law" in honor of the late Florence Nass- the mother of a son killed by a drunken driver, the founder of EndDwi and the

constituent who originally requested that the bill be introduced.

Finally, the committee substitute corrects a misspelling and updates references to the New Jersey Motor Vehicle Commission.

This committee substitute is identical to Assembly Bill No. 682 (1R), as amended and released by the committee on this same date.

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**Press Releases**

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TRENTON, NJ 08625

Contact: Micah Rasmussen  
609-777-2600

RELEASE: January 20, 2004

[Previous Screen](#)

## **Governor Signs Law Lowering DWI Blood Alcohol Content**

### ***Build A Better New Jersey: Making Roads Safer***

(RIDGEFIELD)—Governor James E. McGreevey signed legislation today that will reduce the blood alcohol content (BAC) at which a person is considered to be guilty of drunk driving from 0.10 to 0.08 percent. The announcement underscores with the Governor's State of the State message to "Build a Better New Jersey" by making New Jersey roads safer.

The bill was named after the late Florence Nass, whose son was killed by a drunken driver and was a strong advocate for this measure.

"This law simply makes sense," said McGreevey. "Florence's Law is simply about being responsible. It is a worthy way to honor a great New Jersey activist. Lowering the blood alcohol limit will protect lives and prevent injuries. It will also bring back \$7.2 million in Federal highway funding that the Federal government was going to withhold."

The bill also creates a graduated penalty structure for first offenders. Those who have a BAC of .08 or higher but less than .10 will receive a fine of \$250 to \$400 and up to a three month license suspension. Those with a BAC of .10 or higher will receive a fine of \$300 to \$500 and a license suspension of at least seven months. The same graduated penalty applies to people who let intoxicated persons get behind the wheel.

"It might have taken us 10 years to adopt a stricter standard for charging impaired drivers, but it will surely pay off in lives saved," said Assembly Majority Conference Leader Loretta Weinberg (D-Bergen), who first introduced the .08 legislation in 1993. "Enactment of the lower standard comes at the right time as the National Highway Safety Administration reports drunken driving deaths are again on the rise in New Jersey after several years of decline."

"Inebriated drivers statistically cause the largest numbers of fatal car accidents each year," said Senator Joseph F. Vitale, (D-Middlesex). "By lowering the drunk driving limit to 0.08 percent blood alcohol content we will save lives. And no argument against the new limit can stand up to that fact."

Lowering the BAC will also allow New Jersey to be eligible for critically needed federal transportation funding. States that did not adopt the National .08 BAC law by October 1, 2003, had 2 percent of certain Federal highway construction funds withheld. States that adopt the standard will have their funds reimbursed.

"With the Governor's signature, this law restores the \$7.2 million in withheld federal



highway construction aid to the State,” said Senate President Richard J. Codey, (D-Essex). “With the Transportation Trust Fund nearly depleted, continuing to receive federal transportation grants becomes more and more essential to maintaining our heavily trafficked highway infrastructure.”

“With this law, we stand to save hundreds of lives that would otherwise be tragically lost,” said Senator Joseph Coniglio, (D-Bergen). “At the same time, we have saved the State millions of dollars in transportation funding costs by complying with a federal mandate so we may continue receiving federal highway grants.”

According to research conducted by the National Highway Traffic Safety Administration, virtually all drinkers are significantly impaired at .08 BAC. Studies show some states that enacted a .08 BAC law have reduced the number of fatal crashes by 12 percent.

“In part, .08 is the level at which virtually everyone loses their critical driving skills,” said Frank Winters, State Chairman of MADD New Jersey. “Many of our New Jersey residents will have a future that they would not have had without it.”

Earlier today, the Governor signed Senate Bill 338 which bans the use of hand-held wireless phones in moving vehicles and “Michael’s Law” which requires a person who commits a third or subsequent DWI offense to serve a 180-day prison term in a county jail or workhouse.



State of New Jersey Governor's Office

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