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"Ricci's Law signed on his family's kitchen table in EHT," The Press of Atlantic City, 1-15-10, p.1

"Ignition Lock approved for drunk drivers," The Star-Ledger, 1-15-10, p.32

"N.J. convicted drunk drivers get ignition breathalyzers," NewJerseyNewsroom.com, 1-15-10,

<http://www.newjerseynewsroom.com/state/nj-convicted-drunk-drivers-get-ignition-breathalyzers>

"New Jersey law requires drunken drivers to have ignition interlocks," Gloucester County Times, 1-20-09.

LAW/RWH

[Third Reprint]

**ASSEMBLY, No. 3073**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED SEPTEMBER 15, 2008

**Sponsored by:**

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**District 21 (Essex, Morris, Somerset and Union)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Essex, Morris, Somerset and Union)**

**Assemblyman NELSON T. ALBANO**

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**Assemblyman GORDON M. JOHNSON**

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**Assemblywoman CHARLOTTE VANDERVALK**

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**Co-Sponsored by:**

**Assemblywoman Angelini, Assemblymen Rible, Biondi, Assemblywomen Greenstein, Wagner, Karrow, Assemblymen Van Pelt, Rumpf, Holzapfel, Wolfe, Assemblywomen Evans, Vainieri Huttle, Senators Adler, Whelan, Turner, Vitale, Madden, Connors, Van Drew and Weinberg**

**SYNOPSIS**

“Ricci’s Law;” revises ignition interlock device requirements for certain drunk driving offenders.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on January 7, 2010.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning ignition interlock devices, designated as Ricci's  
2 Law, and amending R.S.39:4-50, <sup>3</sup>[P.L.1999, c.417, and]<sup>3</sup>  
3 P.L.1995, c.286 <sup>3</sup>, P.L.1981, c.512, and amending and  
4 supplementing P.L.1999, c.417<sup>3</sup> .  
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:  
8

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

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

21 (1) For the first offense:

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

38 (ii) if the person's blood alcohol concentration is 0.10% or  
39 higher, or the person operates a motor vehicle while under the  
40 influence of narcotic, hallucinogenic or habit-producing drug, or the  
41 person permits another person who is under the influence of  
42 narcotic, hallucinogenic or habit-producing drug to operate a motor  
43 vehicle owned by him or in his custody or control, or permits

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALP committee amendments adopted October 23, 2008.

<sup>2</sup>Assembly AJU committee amendments adopted June 8, 2009.

<sup>3</sup>Assembly floor amendments adopted January 7, 2010.

1 another person with a blood alcohol concentration of 0.10% or more  
2 to operate a motor vehicle, to a fine of not less than \$300 nor more  
3 than \$500 and a period of detainment of not less than 12 hours nor  
4 more than 48 hours spent during two consecutive days of not less  
5 than six hours each day and served as prescribed by the program  
6 requirements of the Intoxicated Driver Resource Centers established  
7 under subsection (f) of this section and, in the discretion of the  
8 court, a term of imprisonment of not more than 30 days and shall  
9 forthwith forfeit his right to operate a motor vehicle over the  
10 highways of this State for a period of not less than seven months  
11 nor more than one year;

12 (iii) For a first offense, a person also shall be **[subject]**  
13 **<sup>2</sup>[required to install an ignition interlock device pursuant] subject<sup>2</sup>**  
14 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

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

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

47 As used in this section, the phrase "narcotic, hallucinogenic or  
48 habit-producing drug" includes an inhalant or other substance

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

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

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

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

1 Center as provided in subsection (f).

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

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

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

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

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

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

17 (f) The counties, in cooperation with the Division of  
18 Alcoholism and Drug Abuse and the commission, 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  
23 monitors of a person's compliance with the ordered treatment,  
24 service alternative or community service. All centers established  
25 pursuant to this subsection shall be administered by a counselor  
26 certified by the Alcohol and Drug Counselor Certification Board of  
27 New Jersey or other professional with a minimum of five years'  
28 experience in the treatment of alcoholism. All centers shall be  
29 required to develop individualized treatment plans for all persons  
30 attending the centers; provided that the duration of any ordered  
31 treatment or referral shall not exceed one year. It shall be the  
32 center's responsibility to establish networks with the community  
33 alcohol and drug education, treatment and rehabilitation resources  
34 and to receive monthly reports from the referral agencies regarding  
35 a person's participation and compliance with the program. Nothing  
36 in this subsection shall bar these centers from developing their own  
37 education and treatment programs; provided that they are approved  
38 by the Division of Alcoholism and 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.  
46 Upon attendance at an Intoxicated Driver Resource Center, a person  
47 shall be required to pay a per diem fee of \$75.00 for the first  
48 offender program or a per diem fee of \$100.00 for the second



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

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

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

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

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

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

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

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

1 paragraph (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  
4 unaware that the prohibited conduct took place while on or within  
5 1,000 feet of any school property or while driving through a school  
6 crossing. Nor shall it be relevant to the imposition of sentence that  
7 no juveniles were present on the school property or crossing zone at  
8 the time of the 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  
16 and mental suitability for the visit to ensure that it will not cause  
17 any injury to the defendant. The court also may order that the  
18 defendant participate in a counseling session under the supervision  
19 of the 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  
22 to 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  
27 of drunk drivers and victims who are, themselves, drunk drivers;

28 (2) a facility which cares for advanced alcoholics or drug  
29 abusers, to observe persons in the advanced stages of alcoholism or  
30 drug abuse; 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  
35 whose condition is determined by the facility's supervisory  
36 personnel and the probation officer to be appropriate for  
37 demonstrating the results of accidents involving drunk drivers  
38 without being unnecessarily gruesome or traumatic to the  
39 defendant.

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

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

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

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

22 (cf: P.L.2004, c.8, s.2)

23

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

26 2. a. <sup>2</sup>[In] (1) Except as provided in paragraph (2) of this  
27 subsection, in<sup>2</sup> sentencing a first offender under R.S.39:4-50, the  
28 court [may] <sup>2</sup>[shall] may<sup>2</sup> order, in addition to any other penalty  
29 imposed by that section, the installation of an <sup>1</sup>ignition<sup>1</sup> interlock  
30 device in <sup>3</sup>[every] the<sup>3</sup> motor vehicle <sup>3</sup>[owned, leased or regularly]  
31 principally<sup>3</sup> operated by the offender <sup>2</sup>[<sup>1</sup>during and<sup>1</sup>]<sup>2</sup> following  
32 the expiration of the period of license suspension imposed under  
33 that section. <sup>3</sup>In sentencing a first offender under section 2 of  
34 P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to  
35 any other penalty imposed by that section, the installation of an  
36 ignition interlock device in the motor vehicle principally operated  
37 by the offender during and following the expiration of the period of  
38 license suspension imposed under that section.<sup>3</sup> [The] <sup>2</sup>[In  
39 addition to installation during the period of license suspension, the]  
40 The<sup>2</sup> device shall remain installed for not less than six months or  
41 more than one year, commencing immediately upon the return of  
42 the offender's driver's license after the required period of  
43 suspension has been served.

44 <sup>2</sup>(2) If the first offender's blood alcohol concentration is 0.15 %  
45 or higher, the court shall order, in addition to any other penalty  
46 imposed under R.S.39:4-50, the installation of an ignition interlock  
47 device in <sup>3</sup>[every] the<sup>3</sup> motor vehicle <sup>3</sup>[owned, leased or regularly]

1 principally<sup>3</sup> operated by the offender during and following the  
2 expiration of the period of license suspension imposed under that  
3 section. In addition to installation during the period of license  
4 suspension, the device shall remain installed for not less than six  
5 months or more than one year, commencing immediately upon the  
6 return of the offender's driver's license after the required period of  
7 suspension has been served.<sup>2</sup>

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

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

24 d. As used in this act, "ignition interlock device" or "device"  
25 means a blood alcohol equivalence measuring device which will  
26 prevent a motor vehicle from starting if the operator's blood alcohol  
27 content exceeds a predetermined level when the operator blows into  
28 the device.

29 <sup>3</sup>e. The provisions of P.L.1999, c.417 (C.39:4-50.16 et al) and  
30 any amendments and supplements thereto shall be applicable only  
31 to violations of R.S.39:4-50 and section 2 of P.L.1981, c.512  
32 (C.39:4-50.4a).<sup>3</sup>

33 (cf: P.L.2000, c.83, s.4)

34  
35 3. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
36 read as follows:

37 4. a. A person who fails to install an interlock device ordered  
38 by the court in a motor vehicle owned, leased or regularly operated  
39 by him shall have his driver's license suspended for one year, in  
40 addition to any other suspension or revocation imposed under  
41 R.S.39:4-50, unless the court determines a valid reason exists for  
42 the failure to comply. A person in whose vehicle an interlock  
43 device is installed pursuant to a court order who drives that vehicle  
44 after it has been started by any means other than his own blowing  
45 into the device or who drives a vehicle that is not equipped with  
46 such a device shall have his driver's license suspended for one year,  
47 in addition to any other penalty applicable by law.

1 b. A person is a disorderly person who:

2 (1) ~~Blows~~ ~~'blows~~ blows<sup>1</sup> into an interlock device or  
3 otherwise starts a motor vehicle equipped with such a device for the  
4 purpose of providing an operable motor vehicle to a person who has  
5 been ordered by the court to install the device in the vehicle~~].~~;

6 (2) ~~Tampers~~ tampers or in any way circumvents the operation  
7 of an interlock device ~~].~~; or

8 (3) ~~Knowingly~~ knowingly rents, leases or lends a motor  
9 vehicle not equipped with an interlock device to a person who has  
10 been ordered by the court to install an interlock device in a vehicle  
11 he owns, leases or regularly operates.

12 c. The provisions of subsection b. of this section shall not  
13 apply if a motor vehicle required to be equipped with an ignition  
14 interlock device is started by a person for the purpose of safety or  
15 mechanical repair of the device or the vehicle, provided the person  
16 subject to the court order does not operate the vehicle.

17 (cf: P.L.2000, c.83, s.4)

18

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

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

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

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

30 (3) R.S.39:4-50 for a second or subsequent offense, if such  
31 revocation is ordered by the court as authorized under that section].  
32 (Deleted by amendment, P.L. , c. ) (pending before the  
33 Legislature as this bill)

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

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

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

16 c. If the violator subject to the penalties set forth in subsections  
17 a. and b. of this section for conviction of violating the provisions of  
18 R.S.39:3-40 was operating a motor vehicle owned or leased by  
19 another person and that other owner or lessee permitted that  
20 operation with knowledge that the violator's driver's license was  
21 suspended, the court shall suspend the person's license to operate a  
22 motor vehicle and revoke the registration certificate and registration  
23 plates for that vehicle for a period of not more than six months.  
24 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee  
25 shall surrender the registration certificate and registration plates of  
26 that vehicle within 48 hours of the court's notice of revocation. The  
27 surrender shall be at a place and in a manner prescribed by the  
28 Director of the Division of Motor Vehicles pursuant to rule and  
29 regulation. The court also shall notify the owner or lessee that a  
30 failure to surrender the revoked registration certificate and  
31 registration plates shall result in the impoundment of the vehicle in  
32 accordance with the provisions of section 4 of P.L.1995, c.286  
33 (C.39:3-40.3) and the seizure of said registration certificate and  
34 registration plates. Nothing in this subsection shall be construed to  
35 limit the court from finding that owner or lessee guilty of violating  
36 R.S.39:3-39 or any other such statute concerning the operation of a  
37 motor vehicle by an unlicensed driver.  
38 (cf: P.L.2000, c.83, s.2)

39  
40 <sup>35</sup>. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to  
41 read as follows:

42 2. a. Except as provided in subsection b. of this section, the  
43 municipal court shall revoke the right to operate a motor vehicle of  
44 any operator who, after being arrested for a violation of R.S.39:4-50  
45 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to  
46 submit to a test provided for in section 2 of P.L.1966, c.142  
47 (C.39:4-50.2) when requested to do so, for not less than seven  
48 months or more than one year unless the refusal was in connection

1 with a second offense under this section, in which case the  
2 revocation period shall be for two years or unless the refusal was in  
3 connection with a third or subsequent offense under this section in  
4 which case the revocation shall be for ten years. A conviction or  
5 administrative determination of a violation of a law of a  
6 substantially similar nature in another jurisdiction, regardless of  
7 whether that jurisdiction is a signatory to the Interstate Driver  
8 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
9 shall constitute a prior conviction under this section.

10 The municipal court shall determine by a preponderance of the  
11 evidence whether the arresting officer had probable cause to believe  
12 that the person had been driving or was in actual physical control of  
13 a motor vehicle on the public highways or quasi-public areas of this  
14 State while the person was under the influence of intoxicating  
15 liquor or a narcotic, hallucinogenic, or habit-producing drug or  
16 marijuana; whether the person was placed under arrest, if  
17 appropriate, and whether he refused to submit to the test upon  
18 request of the officer; and if these elements of the violation are not  
19 established, no conviction shall issue. In addition to any other  
20 requirements provided by law, a person whose operator's license is  
21 revoked for refusing to submit to a test shall be referred to an  
22 Intoxicated Driver Resource Center established by subsection (f.) of  
23 R.S.39:4-50 and shall satisfy the same requirements of the center  
24 for refusal to submit to a test as provided for in section 2 of  
25 P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second,  
26 third or subsequent offense under this section that must be satisfied  
27 by a person convicted of a commensurate violation of this section,  
28 or be subject to the same penalties as such a person for failure to do  
29 so. For a first offense, the revocation may be concurrent with or  
30 consecutive to any revocation imposed for a conviction under the  
31 provisions of R.S.39:4-50 arising out of the same incident. For a  
32 second or subsequent offense, the revocation shall be consecutive to  
33 any revocation imposed for a conviction under the provisions of  
34 R.S.39:4-50. In addition to issuing a revocation, except as provided  
35 in subsection b. of this section, the municipal court shall fine a  
36 person convicted under this section, a fine of not less than \$300 or  
37 more than \$500 for a first offense; a fine of not less than \$500 or  
38 more than \$1,000 for a second offense; and a fine of \$1,000 for a  
39 third or subsequent offense. The person also shall be required to  
40 install an ignition interlock device pursuant to the provisions of  
41 P.L.1999. c.417 (C39:4-50.16 et al.).

42 b. For a first offense, the fine imposed upon the convicted  
43 person shall be not less than \$600 or more than \$1,000 and the  
44 period of license suspension shall be not less than one year or more  
45 than two years; for a second offense, a fine of not less than \$1,000  
46 or more than \$2,000 and a license suspension for a period of four  
47 years; and for a third or subsequent offense, a fine of \$2,000 and a

1 license suspension for a period of 20 years when a violation of this  
2 section occurs while:

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

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

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

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

18 It shall not be relevant to the imposition of sentence pursuant to  
19 paragraph (1) or (2) of this subsection that the defendant was  
20 unaware that the prohibited conduct took place while on or within  
21 1,000 feet of any school property or while driving through a school  
22 crossing. Nor shall it be relevant to the imposition of sentence that  
23 no juveniles were present on the school property or crossing zone at  
24 the time of the offense or that the school was not in session.<sup>3</sup>

25 (cf: P.L.2007, c.267, s.2)

26

27 <sup>3</sup>6. (New section) a. If a person is required to install an ignition  
28 interlock device and that person's family income does not exceed  
29 100% of the federal poverty level, the monthly leasing fee shall be  
30 50% of the fee established by regulation for persons who do not  
31 qualify for the reduced fee.

32 b. If a person is required to install an ignition interlock device  
33 and that person's family income does not exceed 149% of the  
34 federal poverty level, the monthly leasing fee shall be 75% of the  
35 fee established by regulation for persons who do not qualify for the  
36 reduced fee.

37 c. Persons who qualify for a reduced fee pursuant to the  
38 provisions of this section shall not be required to pay the  
39 installation fee, the cost for monitoring of the device, or any fees  
40 for calibration or removal of the device.<sup>3</sup>

41

42 <sup>3</sup>[5.] 7.<sup>3</sup> This act shall take effect immediately.



# ASSEMBLY, No. 3073

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2008

**Sponsored by:**

**Assemblyman ERIC MUNOZ**

**District 21 (Essex, Morris, Somerset and Union)**

**Assemblyman NELSON T. ALBANO**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Angelini, Assemblymen Rible and Biondi**

**SYNOPSIS**

“Ricci’s Law;” clarifies that use of ignition interlock device is mandatory for all drunk driving offenses and requires installation during license suspension.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/24/2008)**

1 AN ACT concerning ignition interlock devices, designated as Ricci's  
2 Law, and amending R.S.39:4-50, P.L.1999, c.417, and P.L.1995,  
3 c.286.

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

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

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

20 (1) For the first offense:

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

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

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

Matter underlined thus is new matter.

1 more than 48 hours spent during two consecutive days of not less  
2 than six hours each day and served as prescribed by the program  
3 requirements of the Intoxicated Driver Resource Centers established  
4 under subsection (f) of this section and, in the discretion of the  
5 court, a term of imprisonment of not more than 30 days and shall  
6 forthwith forfeit his right to operate a motor vehicle over the  
7 highways of this State for a period of not less than seven months  
8 nor more than one year;

9 (iii) For a first offense, a person also shall be **subject** required  
10 to install an ignition interlock device pursuant to the provisions of  
11 P.L.1999, c.417 (C.39:4-50.16 et al.).

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

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

44 As used in this section, the phrase "narcotic, hallucinogenic or  
45 habit-producing drug" includes an inhalant or other substance  
46 containing a chemical capable of releasing any toxic vapors or  
47 fumes for the purpose of inducing a condition of intoxication, such  
48 as any glue, cement or any other substance containing one or more

1 of the following chemical compounds: acetone and acetate, amyl  
2 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl  
3 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,  
4 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or  
5 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous  
6 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl  
7 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or  
8 any other chemical substance capable of causing a condition of  
9 intoxication, inebriation, excitement, stupefaction or the dulling of  
10 the brain or nervous system as a result of the inhalation of the  
11 fumes or vapors of 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  
14 police officer shall consider that fact along with all other facts and  
15 circumstances in determining whether there are reasonable grounds  
16 to believe that person was operating a motor vehicle in violation of  
17 this section.

18 A conviction of a violation of a law of a substantially similar  
19 nature in another jurisdiction, regardless of whether that jurisdiction  
20 is a 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  
22 conviction under this subsection unless the defendant can  
23 demonstrate by clear and convincing evidence that the conviction in  
24 the other jurisdiction was based exclusively upon a violation of a  
25 proscribed blood alcohol concentration of less than 0.08%.

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

47 A person who has been convicted of a previous violation of this  
48 section need not be charged as a second or subsequent offender in

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

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

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

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

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

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

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

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

40 Required detention periods at the Intoxicated Driver Resource  
41 Centers shall be determined according to the individual treatment  
42 classification assigned by the Intoxicated Driving Program Unit.  
43 Upon attendance at an Intoxicated Driver Resource Center, a person  
44 shall be required to pay a per diem fee of \$75.00 for the first  
45 offender program or a per diem fee of \$100.00 for the second  
46 offender program, as appropriate. Any increases in the per diem  
47 fees after the first full year shall be determined pursuant to rules  
48 and regulations adopted by the Commissioner of Health and Senior

1 Services in consultation with the Governor's Council on Alcoholism  
2 and Drug Abuse pursuant to the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

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

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

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

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

47 It shall not be relevant to the imposition of sentence pursuant to  
48 paragraph (1) or (2) of this subsection that the defendant was

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

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

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

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

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

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

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



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

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

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

19 (cf: P.L.2004, c.8, s.2)

20

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

23 2. a. In sentencing a first offender under R.S.39:4-50, the court  
24 **【may】 shall** order, in addition to any other penalty imposed by that  
25 section, the installation of an interlock device in every motor  
26 vehicle owned, leased or regularly operated by the offender  
27 following the expiration of the period of license suspension  
28 imposed under that section. **【The】 In addition to installation during**  
29 **the period of license suspension, the** device shall remain installed  
30 for not less than six months or more than one year, commencing  
31 immediately upon the return of the offender's driver's license after  
32 the required period of suspension has been served.

33 b. In sentencing a second or subsequent offender under  
34 R.S.39:4-50, the court **【may】 shall** order, in addition to any other  
35 penalty imposed by that section, the installation of an interlock  
36 device in every motor vehicle owned, leased or regularly operated  
37 by the offender **during and following the expiration of the period of**  
38 **license suspension imposed under R.S.39:4-50. 【The】 In addition**  
39 **to installation during the period of license suspension, the** device  
40 shall remain installed for not less than one year or more than three  
41 years, commencing immediately upon the return of the offender's  
42 driver's license after the required period of suspension has been  
43 served.

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

47 d. As used in this act, "ignition interlock device" or "device"  
48 means a blood alcohol equivalence measuring device which will

1 prevent a motor vehicle from starting if the operator's blood alcohol  
2 content exceeds a predetermined level when the operator blows into  
3 the device.

4 (cf: P.L.2000, c.83, s.4)

5

6 3. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
7 read as follows:

8 4. a. A person who fails to install an interlock device ordered by  
9 the court in a motor vehicle owned, leased or regularly operated by  
10 him shall have his driver's license suspended for one year, in  
11 addition to any other suspension or revocation imposed under  
12 R.S.39:4-50, unless the court determines a valid reason exists for  
13 the failure to comply. A person in whose vehicle an interlock  
14 device is installed pursuant to a court order who drives that vehicle  
15 after it has been started by any means other than his own blowing  
16 into the device or who drives a vehicle that is not equipped with  
17 such a device shall have his driver's license suspended for one year,  
18 in addition to any other penalty applicable by law.

19 b. A person is a disorderly person who:

20 (1) **【Blows】** blows into an interlock device or otherwise starts a  
21 motor vehicle equipped with such a device for the purpose of  
22 providing an operable motor vehicle to a person who has been  
23 ordered by the court to install the device in the vehicle**【.】**;

24 (2) **【Tampers】** tampers or in any way circumvents the operation  
25 of an interlock device **【.】**; or

26 (3) **【Knowingly】** knowingly rents, leases or lends a motor  
27 vehicle not equipped with an interlock device to a person who has  
28 been ordered by the court to install an interlock device in a vehicle  
29 he owns, leases or regularly operates.

30 c. The provisions of subsection b. of this section shall not apply  
31 if a motor vehicle required to be equipped with an ignition interlock  
32 device is started by a person for the purpose of safety or mechanical  
33 repair of the device or the vehicle, provided the person subject to  
34 the court order does not operate the vehicle.

35 (cf: P.L.2000, c.83, s.4)

36

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

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

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

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

1 (3) R.S.39:4-50 for a second or subsequent offense, if such  
2 revocation is ordered by the court as authorized under that section].  
3 (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the  
4 Legislature as this bill)

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

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

34 c. If the violator subject to the penalties set forth in subsections  
35 a. and b. of this section for conviction of violating the provisions of  
36 R.S.39:3-40 was operating a motor vehicle owned or leased by  
37 another person and that other owner or lessee permitted that  
38 operation with knowledge that the violator's driver's license was  
39 suspended, the court shall suspend the person's license to operate a  
40 motor vehicle and revoke the registration certificate and registration  
41 plates for that vehicle for a period of not more than six months.  
42 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee  
43 shall surrender the registration certificate and registration plates of  
44 that vehicle within 48 hours of the court's notice of revocation. The  
45 surrender shall be at a place and in a manner prescribed by the  
46 Director of the Division of Motor Vehicles pursuant to rule and  
47 regulation. The court also shall notify the owner or lessee that a  
48 failure to surrender the revoked registration certificate and

1 registration plates shall result in the impoundment of the vehicle in  
2 accordance with the provisions of section 4 of P.L.1995, c.286  
3 (C.39:3-40.3) and the seizure of said registration certificate and  
4 registration plates. Nothing in this subsection shall be construed to  
5 limit the court from finding that owner or lessee guilty of violating  
6 R.S.39:3-39 or any other such statute concerning the operation of a  
7 motor vehicle by an unlicensed driver.

8 (cf: P.L. 2000, c.83, s.2)

9  
10 5. This act shall take effect immediately.

11  
12  
13 STATEMENT

14  
15 This bill, to be known as “Ricci’s Law,” would clarify that all  
16 persons convicted of a first, second or subsequent offense of drunk  
17 driving are required to install an ignition interlock device in any  
18 motor vehicle they own, lease or operate during the period that the  
19 person's license is suspended for the drunk driving offense, in  
20 addition to installing the device as required under current law.

21 Under the State's drunk driving statute, R.S.39:4-50, the court  
22 may require first time drunk driving offenders to install an ignition  
23 interlock device for a period of six months to one year. Persons  
24 convicted of a second offense are required to install this device or  
25 have their registration certificate and license plates revoked for two  
26 years, and persons convicted of third or subsequent offenses are  
27 required to install these devices or have their registration certificate  
28 and license plates revoked for 10 years.

29 This bill requires persons convicted of first, second and  
30 subsequent drunk driving offenses to have an ignition interlock  
31 installed during the period that the person's license is suspended for  
32 the drunk driving offense, in addition to the period of installation  
33 that may be imposed under current law after restoration of the  
34 driver’s license. The bill removes the option available under  
35 current law permitting revocation of the person’s registration and  
36 license plates if an ignition interlock device is not installed.

37 Finally, the bill allows a person to start a motor vehicle equipped  
38 with an ignition interlock device for the purpose of safety or  
39 mechanical repair of the device or repair of the motor vehicle, but  
40 only if the person required to have the device installed does not  
41 operate the vehicle. Under the ignition interlock law, it currently is  
42 a disorderly persons offense to blow into an ignition interlock  
43 device or otherwise start a motor vehicle equipped with such a  
44 device to provide an operable motor vehicle to the person required  
45 to have the device, or to tamper with such a device to circumvent its  
46 operation.

47 It is the sponsors’ intent that this bill be named “Ricci’s Law” in  
48 memory of Ricci Branca, a 17-year-old Egg Harbor Township

1 teenager. Ricci was riding his bicycle with friends when a drunk  
2 driver plowed into their group and fled the scene of the accident.  
3 Several teenagers in the group were injured, and Ricci succumbed  
4 to his injuries four days after the accident. The driver's blood  
5 alcohol concentration was .339%, more than four times New  
6 Jersey's legal limit of .08%. It is the sponsors' hope that expansion  
7 of the ignition interlock requirement will provide another tool to  
8 keep intoxicated drivers off of the State's roadways.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3073**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 23, 2008

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3073.

Assembly Bill No. 3073, entitled "Ricci's Law," clarifies that all persons convicted of a first, second or subsequent offense of drunk driving are required to install an ignition interlock device in any motor vehicle they own, lease, or operate during the period that the person's license is suspended for the drunk driving offense, in addition to installing the device following restoration of the person's driver's license as required under current law.

Under the State's drunk driving statute, R.S.39:4-50, the court may require first time drunk driving offenders to install an ignition interlock device for a period of six months to one year. Persons convicted of a second offense are required to install this device or have their registration certificate and license plates revoked for two years, and persons convicted of third or subsequent offenses are required to install these devices or have their registration certificate and license plates revoked for 10 years.

This bill requires persons convicted of first, second, and subsequent drunk driving offenses to have an ignition interlock installed during the period that the person's license is suspended for the drunk driving offense, in addition to the period of installation that may be imposed under current law after restoration of the driver's license. The bill removes the option available under current law permitting revocation of the person's registration and license plates if an ignition interlock device is not installed.

Finally, the bill allows a person to start a motor vehicle equipped with an ignition interlock device for the purpose of safety or mechanical repair of the device or repair of the motor vehicle, but only if the person required to have the device installed does not operate the vehicle. Under the ignition interlock law, it currently is a disorderly persons offense to blow into an ignition interlock device or otherwise start a motor vehicle equipped with such a device to provide an operable motor vehicle to the person required to have the device, or to tamper with such a device to circumvent its operation.

It is the sponsors' intent that this bill be named "Ricci's Law" in

memory of Ricci Branca, a 17-year-old boy from Egg Harbor Township. Ricci was riding his bicycle with friends when a drunk driver plowed into their group and fled the scene of the accident. Several teenagers in the group were injured, and Ricci succumbed to his injuries four days after the accident. The driver's blood alcohol concentration was .339%, more than four times New Jersey's legal limit of .08%. It is the sponsors' hope that expansion of the ignition interlock requirement will provide another tool to keep intoxicated drivers off of the State's roadways.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY, No. 3073

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 8, 2009

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3073(1R).

This bill, entitled "Ricci's Law," provides that all persons convicted of first, second, and third offenses of drunk driving would be required to install an ignition interlock device in any motor vehicle that they own, lease or operate. Current law imposes driver's license suspensions on all persons convicted of drunk driving and allows the court the option to order the installation of an ignition interlock device after the license suspension period is over and the license is returned to the person. Under the bill, the interlock device would be mandatory in all cases and, in addition, would also be required to be in effect during the period of time that the license is suspended.

Under the State statutes governing drunk driving, R.S.39:4-50, and the use of ignition interlock devices, P.L.1999, c.417 (C.39:4-50.16 et seq.), the court may require first time drunk driving offenders to install an ignition interlock device for a period of six months to one year. Persons convicted of a second offense are required to either install this device for one to three years or have their registration certificate and license plates revoked for two years, and persons convicted of third or subsequent offenses are required to either install the device for one to three years or have their registration certificate and license plates revoked for 10 years. This bill removes the option available under current law for revocation of the person's registration and license.

The bill allows a person to start a motor vehicle equipped with an ignition interlock device for the purpose of safety or mechanical repair of the device or repair of the motor vehicle, but only if the person required to have the device installed does not operate the vehicle. Under the ignition interlock law, it currently is a disorderly persons offense to blow into an ignition interlock device or otherwise start a motor vehicle equipped with such a device to provide an operable motor vehicle to the person required to have the device, or to tamper with such a device to circumvent its operation.

It is the sponsors' intent that this bill be named "Ricci's Law" in memory of Ricci Branca, a 17-year-old boy from Egg Harbor



Township. Ricci was riding his bicycle with friends when a drunk driver plowed into their group and fled the scene of the accident. Several teenagers in the group were injured, and Ricci succumbed to his injuries four days after the accident. The driver's blood alcohol concentration was .339%, more than four times New Jersey's legal limit of .08%. It is the sponsors' hope that expansion of the ignition interlock requirement will provide another tool to keep intoxicated drivers off of the State's roadways.

#### COMMITTEE AMENDMENTS

The committee amendments provide that the bill would apply only to those first offenders whose blood alcohol concentration was 0.15% or greater. These offenders would be required to have the interlock device installed for a period of six months to one year following the restoration of their driver's licenses.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 3073**

with Assembly Floor Amendments  
(Proposed by Assemblywoman MUNOZ and Assemblyman ALBANO)

ADOPTED: JANUARY 7, 2010

Assembly Bill No. 3073(2R), entitled “Ricci’s Law,” provides that all persons convicted of first, second, and third offenses of drunk driving would be required to install an ignition interlock device in any motor vehicle that they own, lease or operate. Current law imposes driver’s license suspensions on all persons convicted of drunk driving and allows the court the option to order the installation of an ignition interlock device after the license suspension period is over and the license is returned to the person. Under the bill, the interlock device would be mandatory in all cases and, in addition, would also be required to be in effect during the period of time that the license is suspended.

These Assembly amendments provide that persons who are convicted of refusing the breath test also would be required to install an ignition interlock device. They are subject to the same requirements imposed on convicted drunk drivers under the bill, except that all first offenders of the refusal statute would be required to install the device. The amendments also clarify that offenders for offenses other than drunk driving or refusal to submit to the breath test would not be subject to the provisions of the ignition interlock statute. The amendments also provide that the device would be installed only on the vehicle principally operated by the offender.

The amendments also provide for reduced fees for certain persons required to install the device. If the person’s family income does not exceed 100% of the federal poverty level, the monthly leasing fee would be 50% of the cost established by regulation. If the person’s family income does not exceed 149% of the federal poverty level, the monthly leasing fee would be 75% of the cost established by regulation. Persons who qualify for a reduced fee would not be required to pay the installation fee, the fee for monitoring of the device, or any fees for calibration or removal of the device.

As amended, this bill is identical to Senate Bill No. 1926 (1R), which was amended by the Senate on this same date.

**SENATE, No. 1926**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED JUNE 9, 2008

**Sponsored by:**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Co-Sponsored by:**

**Senators Turner, Vitale and Madden**

**SYNOPSIS**

“Ricci’s Law;” clarifies that use of ignition interlock device is mandatory for all drunk driving offenses and requires installation during license suspension.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/27/2009)**

1 AN ACT concerning ignition interlock devices, designated as Ricci's  
2 Law, and amending R.S.39:4-50, P.L.1999, c.417, and P.L.1995,  
3 c.286.

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

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

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

20 (1) For the first offense:

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

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

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

Matter underlined thus is new matter.

1 more than 48 hours spent during two consecutive days of not less  
2 than six hours each day and served as prescribed by the program  
3 requirements of the Intoxicated Driver Resource Centers established  
4 under subsection (f) of this section and, in the discretion of the  
5 court, a term of imprisonment of not more than 30 days and shall  
6 forthwith forfeit his right to operate a motor vehicle over the  
7 highways of this State for a period of not less than seven months  
8 nor more than one year;

9 (iii) For a first offense, a person also shall be **subject** required  
10 to install an ignition interlock device pursuant to the provisions of  
11 P.L.1999, c.417 (C.39:4-50.16 et al.).

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

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

44 As used in this section, the phrase "narcotic, hallucinogenic or  
45 habit-producing drug" includes an inhalant or other substance  
46 containing a chemical capable of releasing any toxic vapors or  
47 fumes for the purpose of inducing a condition of intoxication, such  
48 as any glue, cement or any other substance containing one or more

1 of the following chemical compounds: acetone and acetate, amyl  
2 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl  
3 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,  
4 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or  
5 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous  
6 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl  
7 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or  
8 any other chemical substance capable of causing a condition of  
9 intoxication, inebriation, excitement, stupefaction or the dulling of  
10 the brain or nervous system as a result of the inhalation of the  
11 fumes or vapors of 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  
14 police officer shall consider that fact along with all other facts and  
15 circumstances in determining whether there are reasonable grounds  
16 to believe that person was operating a motor vehicle in violation of  
17 this section.

18 A conviction of a violation of a law of a substantially similar  
19 nature in another jurisdiction, regardless of whether that jurisdiction  
20 is a 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  
22 conviction under this subsection unless the defendant can  
23 demonstrate by clear and convincing evidence that the conviction in  
24 the other jurisdiction was based exclusively upon a violation of a  
25 proscribed blood alcohol concentration of less than 0.08%.

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

47 A person who has been convicted of a previous violation of this  
48 section need not be charged as a second or subsequent offender in

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

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

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

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

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

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

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

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

40 Required detention periods at the Intoxicated Driver Resource  
41 Centers shall be determined according to the individual treatment  
42 classification assigned by the Intoxicated Driving Program Unit.  
43 Upon attendance at an Intoxicated Driver Resource Center, a person  
44 shall be required to pay a per diem fee of \$75.00 for the first  
45 offender program or a per diem fee of \$100.00 for the second  
46 offender program, as appropriate. Any increases in the per diem  
47 fees after the first full year shall be determined pursuant to rules  
48 and regulations adopted by the Commissioner of Health and Senior



1 Services in consultation with the Governor's Council on Alcoholism  
2 and Drug Abuse pursuant to the "Administrative Procedure Act,"  
3 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

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

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

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

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

47 It shall not be relevant to the imposition of sentence pursuant to  
48 paragraph (1) or (2) of this subsection that the defendant was

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

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

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

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

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

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

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

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

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

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

19 (cf: P.L.2004, c.8, s.2)

20

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

23 2. a. In sentencing a first offender under R.S.39:4-50, the court  
24 **【may】 shall** order, in addition to any other penalty imposed by that  
25 section, the installation of an ignition interlock device in every  
26 motor vehicle owned, leased or regularly operated by the offender  
27 during and following the expiration of the period of license  
28 suspension imposed under that section. **【The】 In addition to**  
29 installation during the period of license suspension, the device shall  
30 remain installed for not less than six months or more than one year,  
31 commencing immediately upon the return of the offender's driver's  
32 license after the required period of suspension has been served.

33 b. In sentencing a second or subsequent offender under  
34 R.S.39:4-50, the court **【may】 shall** order, in addition to any other  
35 penalty imposed by that section, the installation of an ignition  
36 interlock device in every motor vehicle owned, leased or regularly  
37 operated by the offender during and following the expiration of the  
38 period of license suspension imposed under R.S.39:4-50. 【The】 In  
39 addition to installation during the period of license suspension, the  
40 device shall remain installed for not less than one year or more than  
41 three years, commencing immediately upon the return of the  
42 offender's driver's license after the required period of suspension  
43 has been served.

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

47 d. As used in this act, "ignition interlock device" or "device"  
48 means a blood alcohol equivalence measuring device which will

1 prevent a motor vehicle from starting if the operator's blood alcohol  
2 content exceeds a predetermined level when the operator blows into  
3 the device.

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

5

6 3. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
7 read as follows:

8 4. a. A person who fails to install an interlock device ordered by  
9 the court in a motor vehicle owned, leased or regularly operated by  
10 him shall have his driver's license suspended for one year, in  
11 addition to any other suspension or revocation imposed under  
12 R.S.39:4-50, unless the court determines a valid reason exists for  
13 the failure to comply. A person in whose vehicle an interlock  
14 device is installed pursuant to a court order who drives that vehicle  
15 after it has been started by any means other than his own blowing  
16 into the device or who drives a vehicle that is not equipped with  
17 such a device shall have his driver's license suspended for one year,  
18 in addition to any other penalty applicable by law.

19 b. A person is a disorderly person who:

20 (1) **【Blows】** blows into an interlock device or otherwise starts a  
21 motor vehicle equipped with such a device for the purpose of  
22 providing an operable motor vehicle to a person who has been  
23 ordered by the court to install the device in the vehicle**【.】**;

24 (2) **【Tampers】** tampers or in any way circumvents the operation  
25 of an interlock device **【.】**; or

26 (3) **【Knowingly】** knowingly rents, leases or lends a motor  
27 vehicle not equipped with an interlock device to a person who has  
28 been ordered by the court to install an interlock device in a vehicle  
29 he owns, leases or regularly operates.

30 c. The provisions of subsection b. of this section shall not apply  
31 if a motor vehicle required to be equipped with an ignition interlock  
32 device is started by a person for the purpose of safety or mechanical  
33 repair of the device or the vehicle, provided the person subject to  
34 the court order does not operate the vehicle.

35 (cf: P.L.1999, c.417, s.4)

36

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

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

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

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

1 (3) R.S.39:4-50 for a second or subsequent offense, if such  
2 revocation is ordered by the court as authorized under that section].  
3 (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the  
4 Legislature as this bill)

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

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

34 c. If the violator subject to the penalties set forth in subsections  
35 a. and b. of this section for conviction of violating the provisions of  
36 R.S.39:3-40 was operating a motor vehicle owned or leased by  
37 another person and that other owner or lessee permitted that  
38 operation with knowledge that the violator's driver's license was  
39 suspended, the court shall suspend the person's license to operate a  
40 motor vehicle and revoke the registration certificate and registration  
41 plates for that vehicle for a period of not more than six months.  
42 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee  
43 shall surrender the registration certificate and registration plates of  
44 that vehicle within 48 hours of the court's notice of revocation. The  
45 surrender shall be at a place and in a manner prescribed by the  
46 Director of the Division of Motor Vehicles pursuant to rule and  
47 regulation. The court also shall notify the owner or lessee that a  
48 failure to surrender the revoked registration certificate and

1 registration plates shall result in the impoundment of the vehicle in  
2 accordance with the provisions of section 4 of P.L.1995, c.286  
3 (C.39:3-40.3) and the seizure of said registration certificate and  
4 registration plates. Nothing in this subsection shall be construed to  
5 limit the court from finding that owner or lessee guilty of violating  
6 R.S.39:3-39 or any other such statute concerning the operation of a  
7 motor vehicle by an unlicensed driver.

8 (cf: P.L. 2000, c.83, s.2)

9

10 5. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill, to be known as “Ricci’s Law,” would clarify that all  
16 persons convicted of a first, second or subsequent offense of drunk  
17 driving are required to install an ignition interlock device in any  
18 motor vehicle they own, lease or operate during the period that the  
19 person's license is suspended for the drunk driving offense, in  
20 addition to installing the device as required under current law.

21 Under the State's drunk driving statute, R.S.39:4-50, the court  
22 may require first time drunk driving offenders to install an ignition  
23 interlock device for a period of six months to one year. Persons  
24 convicted of a second offense are required to install this device or  
25 have their registration certificate and license plates revoked for two  
26 years, and persons convicted of third or subsequent offenses are  
27 required to install these devices or have their registration certificate  
28 and license plates revoked for 10 years.

29 This bill requires persons convicted of first, second and  
30 subsequent drunk driving offenses to have an ignition interlock  
31 installed during the period that the person's license is suspended for  
32 the drunk driving offense, in addition to the period of installation  
33 that may be imposed under current law after restoration of the  
34 driver’s license. The bill removes the option available under  
35 current law permitting revocation of the person’s registration and  
36 license plates if an ignition interlock device is not installed.

37 Finally, the bill allows a person to start a motor vehicle equipped  
38 with an ignition interlock device for the purpose of safety or  
39 mechanical repair of the device or repair of the motor vehicle, but  
40 only if the person required to have the device installed does not  
41 operate the vehicle. Under the ignition interlock law, it currently is  
42 a disorderly persons offense to blow into an ignition interlock  
43 device or otherwise start a motor vehicle equipped with such a  
44 device to provide an operable motor vehicle to the person required  
45 to have the device, or to tamper with such a device to circumvent its  
46 operation.

47 It is the sponsors’ intent that this bill be named “Ricci’s Law” in  
48 memory of Ricci Branca, a 17-year-old Egg Harbor Township

1 teenager. Ricci was riding his bicycle with friends when a drunk  
2 driver plowed into their group and fled the scene of the accident.  
3 Several teenagers in the group were injured, and Ricci succumbed  
4 to his injuries four days after the accident. The driver's blood  
5 alcohol concentration was .339%, more than four times New  
6 Jersey's legal limit of .08%. It is the sponsors' hope that expansion  
7 of the ignition interlock requirement will provide another tool to  
8 keep intoxicated drivers off of the State's roadways.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO  
**SENATE, No. 1926**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 26, 2009

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 1926.

This bill, to be known as "Ricci's Law," requires all persons convicted of a second or subsequent drunk driving offense to install an ignition interlock device in any motor vehicle they own, lease or operate during the period that the person's license is suspended for the drunk driving offense, in addition to installing the device as required under current law. The amended bill also requires first offenders whose blood alcohol concentration was 0.15% or higher to install the device in any motor vehicle they own, lease or operate during the period that the person's license is suspended, in addition to installing the device for six months to one year after restoration of the driver's license. The court would retain discretion as provided under current law to require installation of the device for all other first offenders.

Under the State's drunk driving statute, R.S.39:4-50, the court may require first time drunk driving offenders to install an ignition interlock device for a period of six months to one year. Persons convicted of a second offense are required to install this device or have their registration certificate and license plates revoked for two years, and persons convicted of third or subsequent offenses are required to install these devices or have their registration certificate and license plates revoked for 10 years.

The bill removes the option available under current law permitting revocation of the person's registration and license plates if an ignition interlock device is not installed.

Finally, the bill allows a person to start a motor vehicle equipped with an ignition interlock device for the purpose of safety or mechanical repair of the device or repair of the motor vehicle, but only if the person required to have the device installed does not operate the vehicle. Under the ignition interlock law, it currently is a disorderly persons offense to blow into an ignition interlock device or otherwise start a motor vehicle equipped with such a device to provide an



operable motor vehicle to a person required to have the device, or to tamper with such a device to circumvent its operation.

The committee amended the bill to require first offenders whose blood alcohol concentration was 0.15% or greater to install ignition interlock devices on their vehicles during the required period of driver's license suspension and for a period of six months to one year after restoration of the driver's license. As introduced, the bill applied to all first offenders.

According to the sponsor's statement, this bill is named "Ricci's Law" in memory of Ricci Branca, a 17-year-old Egg Harbor Township teenager. Ricci was riding his bicycle with friends when a drunk driver plowed into their group and fled the scene of the accident. Several teenagers in the group were injured, and Ricci succumbed to his injuries four days after the accident. The driver's blood alcohol concentration was .339%, more than four times New Jersey's legal limit of .08%. It is the sponsors' hope that expansion of the ignition interlock requirement will provide another tool to keep intoxicated drivers off of the State's roadways.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 1926**

with Senate Floor Amendments  
(Proposed by Senator WHELAN)

ADOPTED: JANUARY 7, 2010

Senate Bill No. 1926 (1R), entitled “Ricci’s Law,” provides that all persons convicted of first, second, and third offenses of drunk driving would be required to install an ignition interlock device in any motor vehicle that they own, lease or operate. Current law imposes driver’s license suspensions on all persons convicted of drunk driving and allows the court the option to order the installation of an ignition interlock device after the license suspension period is over and the license is returned to the person. Under the bill, the interlock device would be mandatory in all cases and, in addition, would also be required to be in effect during the period of time that the license is suspended.

These Senate amendments provide that persons who are convicted of refusing the breath test also would be required to install an ignition interlock device. They are subject to the same requirements imposed on convicted drunk drivers under the bill, except that all first offenders of the refusal statute would be required to install the device. The amendments also clarify that offenders for offenses other than drunk driving or refusal to submit to the breath test would not be subject to the provisions of the ignition interlock statute. The amendments also provide that the device would be installed only on the vehicle principally operated by the offender.

The amendments also provide for reduced fees for certain persons required to install the device. If the person’s family income does not exceed 100% of the federal poverty level, the monthly leasing fee would be 50% of the cost established by regulation. If the person’s family income does not exceed 149% of the federal poverty level, the monthly leasing fee would be 75% of the cost established by regulation. Persons who qualify for a reduced fee would not be required to pay the installation fee, for monitoring of the device, or any fees for calibration or removal of the device.

As amended, this bill is identical to Assembly Bill No. 3073 (2R), which was amended by the General Assembly on this same date.