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IS 6/3/08

P.L. 2007, CHAPTER 267, *approved January 13, 2008*  
Senate, No. 781 (*First Reprint*)

1 AN ACT concerning implied consent in certain cases and amending  
2 P.L.1966, c.142 and P.L.1981, c.512.

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

6  
7 1. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to read  
8 as follows:

9 2. (a) Any person who operates a motor vehicle on any public  
10 road, street or highway or quasi-public area in this State shall be  
11 deemed to have given his consent to the taking of samples of his  
12 breath for the purpose of making chemical tests to determine the  
13 content of alcohol in his blood; provided, however, that the taking  
14 of samples is made in accordance with the provisions of this act and  
15 at the request of a police officer who has reasonable grounds to  
16 believe that such person has been operating a motor vehicle in  
17 violation of the provisions of R.S.39:4-50 or section 1 of P.L.1992,  
18 c.189 (C.39:4-50.14).

19 (b) A record of the taking of any such sample, disclosing the date  
20 and time thereof, as well as the result of any chemical test, shall be  
21 made and a copy thereof, upon his request, shall be furnished or  
22 made available to the person so tested.

23 (c) In addition to the samples taken and tests made at the  
24 direction of a police officer hereunder, the person tested shall be  
25 permitted to have such samples taken and chemical tests of his  
26 breath, urine or blood made by a person or physician of his own  
27 selection.

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

30 (e) No chemical test, as provided in this section, or specimen  
31 necessary thereto, may be made or taken forcibly and against  
32 physical resistance thereto by the defendant. The police officer  
33 shall, however, inform the person arrested of the consequences of  
34 refusing to submit to such test in accordance with section 2 of this  
35 amendatory and supplementary act. A standard statement, prepared  
36 by the director, shall be read by the police officer to the person  
37 under arrest.

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

39  
40 2. 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

**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>Senate SLP committee amendments adopted January 26, 2006.

1 any operator who, after being arrested for a violation of R.S.39:4-50  
2 'or section 1 of P.L.1992, c.189 (C.39:4-50.14)'<sup>1</sup>, shall refuse to  
3 submit to a test provided for in section 2 of P.L.1966, c.142  
4 (C.39:4-50.2) when requested to do so, for not less than seven  
5 months or more than one year unless the refusal was in connection  
6 with a second offense under this section, in which case the  
7 revocation period shall be for two years or unless the refusal was in  
8 connection with a third or subsequent offense under this section in  
9 which case the revocation shall be for ten years. A conviction or  
10 administrative determination of a violation of a law of a  
11 substantially similar nature in another jurisdiction, regardless of  
12 whether that jurisdiction is a signatory to the Interstate Driver  
13 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
14 shall constitute a prior conviction under this section.

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

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

1 or more than \$2,000 and a license suspension for a period of four  
2 years; and for a third or subsequent offense, a fine of \$2,000 and a  
3 license suspension for a period of 20 years when a violation of this  
4 section occurs while:

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

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

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

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

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

27 1[c. The municipal court shall revoke the right to operate a  
28 motor vehicle of any operator who, after being arrested for a  
29 violation of section 1 of P.L.1992, c.189 (C.39:4-50.14) shall refuse  
30 to submit to a test provided for in section 2 of P.L.1966, c.142  
31 (C.39:4-50.2) when requested to do so, for a period of not less than  
32 30 or more than 90 days beginning on the date he becomes eligible  
33 to obtain a license or on the day of conviction, whichever is later.  
34 The revocation shall be independent of any revocation imposed by  
35 virtue of a conviction under the provisions of section 1 of P.L.1992,  
36 c.189 (C.39:4-50.14).

37 The municipal court shall determine by a preponderance of the  
38 evidence whether the arresting officer had probable cause to believe  
39 that the person had been driving or was in actual physical control of  
40 a motor vehicle on the public highways or quasi-public areas of this  
41 State with a blood alcohol concentration of 0.01% or more by  
42 weight of alcohol in his blood; whether the person was placed under  
43 arrest, if appropriate; and whether the person refused to submit to  
44 the test upon request of the officer; if these elements of the  
45 violation are not established, no conviction shall issue. In addition  
46 to issuing a revocation, the municipal court shall require the person  
47 to perform community service for a period of not less than 15 or  
48 more than 30 days. The court also shall require the person to satisfy

1 the program and fee requirements of an Intoxicated Driver Resource  
2 Center or participate in a program of alcohol education and highway  
3 safety as prescribed by the Chief Administrator of the Motor  
4 Vehicle Commission.】<sup>1</sup>  
5 (cf: P.L.2004, c.8, s.1)  
6

7 3. This act shall take effect on the first day of the second month  
8 following enactment.  
9

10

11

12

13 Expands scope of implied consent for BAC testing to include  
14 certain underage drivers who have consumed alcohol.

# SENATE, No. 781

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**  
**District 4 (Camden and Gloucester)**  
**Senator BARBARA BUONO**  
**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senators Sacco and Sweeney**

**SYNOPSIS**

Expands scope of implied consent for BAC testing to include certain underage drivers who have consumed alcohol.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 1/27/2006)**

1 AN ACT concerning implied consent in certain cases and amending  
2 P.L.1966, c.142 and P.L.1981, c.512.

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12 breath for the purpose of making chemical tests to determine the  
13 content of alcohol in his blood; provided, however, that the taking  
14 of samples is made in accordance with the provisions of this act and  
15 at the request of a police officer who has reasonable grounds to  
16 believe that such person has been operating a motor vehicle in  
17 violation of the provisions of R.S.39:4-50 or section 1 of P.L.1992,  
18 c.189 (C.39:4-50.14).

19 (b) A record of the taking of any such sample, disclosing the  
20 date and time thereof, as well as the result of any chemical test,  
21 shall be made and a copy thereof, upon his request, shall be  
22 furnished or made available to the person so tested.

23 (c) In addition to the samples taken and tests made at the  
24 direction of a police officer hereunder, the person tested shall be  
25 permitted to have such samples taken and chemical tests of his  
26 breath, urine or blood made by a person or physician of his own  
27 selection.

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

30 (e) No chemical test, as provided in this section, or specimen  
31 necessary thereto, may be made or taken forcibly and against  
32 physical resistance thereto by the defendant. The police officer  
33 shall, however, inform the person arrested of the consequences of  
34 refusing to submit to such test in accordance with section 2 of this  
35 amendatory and supplementary act. A standard statement, prepared  
36 by the director, shall be read by the police officer to the person  
37 under arrest.

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

39

40 2. 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-  
45 50, shall refuse to submit to a test provided for in section 2 of

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

**Matter underlined thus is new matter.**



1 P.L.1966, c.142 (C.39:4-50.2) when requested to do so, for not less  
2 than seven months or more than one year unless the refusal was in  
3 connection with a second offense under this section, in which case  
4 the revocation period shall be for two years or unless the refusal  
5 was in connection with a third or subsequent offense under this  
6 section in which case the revocation shall be for ten years. A  
7 conviction or administrative determination of a violation of a law  
8 of a substantially similar nature in another jurisdiction, regardless  
9 of whether that jurisdiction is a signatory to the Interstate Driver  
10 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
11 shall constitute a prior conviction under this section.

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

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  
48 license suspension for a period of 20 years when a violation of this

1 section occurs while:

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

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

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

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

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

24 c. The municipal court shall revoke the right to operate a motor  
25 vehicle of any operator who, after being arrested for a violation of  
26 section 1 of P.L.1992, c.189 (C.39:4-50.14) shall refuse to submit to  
27 a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2)  
28 when requested to do so, for a period of not less than 30 or more  
29 than 90 days beginning on the date he becomes eligible to obtain a  
30 license or on the day of conviction, whichever is later. The  
31 revocation shall be independent of any revocation imposed by  
32 virtue of a conviction under the provisions of section 1 of P.L.1992,  
33 c.189 (C.39:4-50.14).

34 The municipal court shall determine by a preponderance of the  
35 evidence whether the arresting officer had probable cause to believe  
36 that the person had been driving or was in actual physical control of  
37 a motor vehicle on the public highways or quasi-public areas of this  
38 State with a blood alcohol concentration of 0.01% or more by  
39 weight of alcohol in his blood; whether the person was placed under  
40 arrest, if appropriate; and whether the person refused to submit to  
41 the test upon request of the officer; if these elements of the  
42 violation are not established, no conviction shall issue. In addition  
43 to issuing a revocation, the municipal court shall require the person  
44 to perform community service for a period of not less than 15 or  
45 more than 30 days. The court also shall require the person to satisfy  
46 the program and fee requirements of an Intoxicated Driver Resource  
47 Center or participate in a program of alcohol education and highway

1 safety as prescribed by the Chief Administrator of the Motor  
2 Vehicle Commission.  
3 (cf: P.L.2004, c.8, s.1)  
4

5 3. This act shall take effect on the first day of the second month  
6 following enactment.  
7

8  
9 STATEMENT  
10

11 This bill amends section 2 of P.L.1966, c.142 (C.39:4-50.2), the  
12 implied consent statute, to establish that persons under the age of 21  
13 are deemed to have given their consent to a test of their blood  
14 alcohol concentration when requested by a police officer who has  
15 reasonable grounds to believe they have operated a motor vehicle  
16 with a blood alcohol content of 0.01% or more, but less than 0.08%,  
17 in violation of section 1 of P.L.1992, c.189 (C.39:4-50.14), the  
18 drunk driving statute applicable to underage persons.

19 Pursuant to section 1 of P.L.1992, c.189 (C.39:4-50.14), the  
20 penalties imposed upon persons under the legal age to purchase  
21 alcoholic beverages who are convicted of operating a motor vehicle  
22 with a blood alcohol concentration of 0.01% or more, but less than  
23 0.08% are: 1) loss of driver's license for 30 to 90 days; 2) 15 to 30  
24 days community service; and 3) completion of an Intoxicated  
25 Driver Resource Center or similar program prescribed by the Chief  
26 Administrator of the Motor Vehicle Commission. These penalties  
27 are in addition to any other penalties that may be imposed by law,  
28 including penalties imposed under R.S.39:4-50, the drunk driving  
29 statute. The period of license suspension commences on the date  
30 the person is eligible to obtain a license or on the date of  
31 conviction, whichever is later.

32 The bill further provides that the penalties imposed on an  
33 underage person convicted of drunk driving also will be imposed on  
34 an underage person who refuses to consent to a blood alcohol  
35 concentration test.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 781**

# **STATE OF NEW JERSEY**

DATED: MAY 11, 2006

The Assembly Law and Public Safety Committee reports favorably Senate Bill No. 781 (1R).

This bill amends section 2 of P.L.1966, c.142 (C.39:4-50.2), the implied consent statute, to establish that persons under the age of 21 are deemed to have given their consent to a test of their blood alcohol concentration when requested by a police officer who has reasonable grounds to believe they have operated a motor vehicle with a blood alcohol content of 0.01% or more, but less than 0.08%, in violation of section 1 of P.L.1992, c.189 (C.39:4-50.14), the drunk driving statute applicable to underage persons.

The penalties imposed under this bill would be the same as the penalties currently imposed under section 2 of P.L.1981, c.512 (C.39:4-50.4a) for refusal to submit to a blood alcohol concentration test. For a first offense, those penalties include a driver's license suspension of seven months to one year and a fine of \$300 to \$500.

As reported by the committee, this bill is identical to Assembly Bill No. 490, as amended and reported on this same date.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 781**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 26, 2006

This bill amends section 2 of P.L.1966, c.142 (C.39:4-50.2), the implied consent statute, to establish that persons under the age of 21 are deemed to have given their consent to a test of their blood alcohol concentration when requested by a police officer who has reasonable grounds to believe they have operated a motor vehicle with a blood alcohol content of 0.01% or more, but less than 0.08%, in violation of section 1 of P.L.1992, c.189 (C.39:4-50.14), the drunk driving statute applicable to underage persons.

As amended and reported by the committee, the penalties imposed under this bill would be the same as the penalties currently imposed under section 2 of P.L.1981, c.512 (C.39:4-50.4a) for refusal to submit to a blood alcohol concentration test. For a first offense, those penalties include a driver's license suspension of seven months to one year and a fine of \$300 to \$500. As introduced, the bill provided that the penalties imposed on an underage person convicted of a violation of section 1 of P.L.1992, c.189 (C.39:4-50.14) would be imposed on an underage person who refuses to consent to a blood alcohol concentration test. Those penalties include loss of driver's license for 30 to 90 days, 15 to 30 days community service; and completion of an Intoxicated Driver Resource Center or similar program prescribed by the Chief Administrator of the Motor Vehicle Commission.

This bill was prefiled for introduction in the 2006-2007 legislative session. As reported, the bill includes the changes required by technical review which has been performed.

# ASSEMBLY, No. 490

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN  
District 16 (Morris and Somerset)**

**Co-Sponsored by:**

**Assemblyman Chivukula**

**SYNOPSIS**

Expands scope of implied consent for BAC testing to include certain underage drivers who have consumed alcohol.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



A490 BATEMAN

2

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2 P.L.1966, c.142 and P.L.1981, c.512.

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15 at the request of a police officer who has reasonable grounds to  
16 believe that such person has been operating a motor vehicle in  
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19 (b) A record of the taking of any such sample, disclosing the  
20 date and time thereof, as well as the result of any chemical test,  
21 shall be made and a copy thereof, upon his request, shall be  
22 furnished or made available to the person so tested.

23 (c) In addition to the samples taken and tests made at the  
24 direction of a police officer hereunder, the person tested shall be  
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38 (cf: P.L.1981, c.512, s.1)

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44 any operator who, after being arrested for a violation of R.S.39:4-

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**Matter underlined thus is new matter.**

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11 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
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13 The municipal court shall determine by a preponderance of the  
14 evidence whether the arresting officer had probable cause to believe  
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27 for refusal to submit to a test as provided for in section 2 of  
28 P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second,  
29 third or subsequent offense under this section that must be satisfied  
30 by a person convicted of a commensurate violation of this section,  
31 or be subject to the same penalties as such a person for failure to do  
32 so. For a first offense, the revocation may be concurrent with or  
33 consecutive to any revocation imposed for a conviction under the  
34 provisions of R.S.39:4-50 arising out of the same incident. For a  
35 second or subsequent offense, the revocation shall be consecutive to  
36 any revocation imposed for a conviction under the provisions of  
37 R.S.39:4-50. In addition to issuing a revocation, except as provided  
38 in subsection b. of this section, the municipal court shall fine a  
39 person convicted under this section, a fine of not less than \$300 or  
40 more than \$500 for a first offense; a fine of not less than \$500 or  
41 more than \$1,000 for a second offense; and a fine of \$1,000 for a  
42 third or subsequent offense.

43 b. For a first offense, the fine imposed upon the convicted  
44 person shall be not less than \$600 or more than \$1,000 and the  
45 period of license suspension shall be not less than one year or more  
46 than two years; for a second offense, a fine of not less than \$1,000  
47 or more than \$2,000 and a license suspension for a period of four  
48 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.1997, 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.

25 c. The municipal court shall revoke the right to operate a motor  
26 vehicle of any operator who, after being arrested for a violation of  
27 section 1 of P.L.1992, c.189 (C.39:4-50.14) shall refuse to submit to  
28 a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2)  
29 when requested to do so, for a period of not less than 30 or more  
30 than 90 days beginning on the date he becomes eligible to obtain a  
31 license or on the day of conviction, whichever is later. The  
32 revocation shall be independent of any revocation imposed by  
33 virtue of a conviction under the provisions of section 1 of P.L.1992,  
34 c.189 (C.39:4-50.14).

35 The municipal court shall determine by a preponderance of the  
36 evidence whether the arresting officer had probable cause to believe  
37 that the person had been driving or was in actual physical control of  
38 a motor vehicle on the public highways or quasi-public areas of this  
39 State with a blood alcohol concentration of 0.01% or more by  
40 weight of alcohol in his blood; whether the person was placed under  
41 arrest, if appropriate; and whether the person refused to submit to  
42 the test upon request of the officer; if these elements of the  
43 violation are not established, no conviction shall issue. In addition  
44 to issuing a revocation, the municipal court shall require the person  
45 to perform community service for a period of not less than 15 or  
46 more than 30 days. The court also shall require the person to satisfy  
47 the program and fee requirements of an Intoxicated Driver Resource  
48 Center or participate in a program of alcohol education and highway

1 safety as prescribed by the Chief Administrator of the Motor  
2 Vehicle Commission.

3 (cf: P.L.2004, c.8, s.1)

4

5 3. This act shall take effect on the first day of the second month  
6 following enactment.

7

8

9

STATEMENT

10

11 This bill amends section 2 of P.L.1966, c.142 (C.39:4-50.2), the  
12 implied consent statute, to establish that persons under the age of 21  
13 are deemed to have given their consent to a test of their blood  
14 alcohol concentration when requested by a police officer who has  
15 reasonable grounds to believe they have operated a motor vehicle  
16 with a blood alcohol content of 0.01% or more, but less than 0.08%,  
17 in violation of section 1 of P.L.1992, c.189 (C.39:4-50.14), the  
18 drunk driving statute applicable to underage persons.

19 Pursuant to section 1 of P.L.1992, c.189 (C.39:4-50.14), the  
20 penalties imposed upon persons under the legal age to purchase  
21 alcoholic beverages who are convicted of operating a motor vehicle  
22 with a blood alcohol concentration of 0.01% or more, but less than  
23 0.08% are: 1) loss of driver's license for 30 to 90 days; 2) 15 to 30  
24 days community service; and 3) completion of an Intoxicated  
25 Driver Resource Center or similar program prescribed by the Chief  
26 Administrator of the Motor Vehicle Commission. These penalties  
27 are in addition to any other penalties that may be imposed by law,  
28 including penalties imposed under R.S.39:4-50, the drunk driving  
29 statute. The period of license suspension commences on the date  
30 the person is eligible to obtain a license or on the date of  
31 conviction, whichever is later.

32 The bill further provides that the penalties imposed on an  
33 underage person convicted of drunk driving also will be imposed on  
34 an underage person who refuses to consent to a blood alcohol  
35 concentration test.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 490**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 11, 2006

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 490.

This bill amends section 2 of P.L.1966, c.142 (C.39:4-50.2), the implied consent statute, to establish that persons under the age of 21 are deemed to have given their consent to a test of their blood alcohol concentration when requested by a police officer who has reasonable grounds to believe they have operated a motor vehicle with a blood alcohol content of 0.01% or more, but less than 0.08%, in violation of section 1 of P.L.1992, c.189 (C.39:4-50.14), the drunk driving statute applicable to underage persons.

As amended and reported by the committee, the penalties imposed under this bill would be the same as the penalties currently imposed under section 2 of P.L.1981, c.512 (C.39:4-50.4a) for refusal to submit to a blood alcohol concentration test. For a first offense, those penalties include a driver's license suspension of seven months to one year and a fine of \$300 to \$500. As introduced, the bill provided that the penalties imposed on an underage person convicted of a violation of section 1 of P.L.1992, c.189 (C.39:4-50.14) would be imposed on an underage person who refuses to consent to a blood alcohol concentration test. Those penalties include loss of driver's license for 30 to 90 days, 15 to 30 days community service; and completion of an Intoxicated Driver Resource Center or similar program prescribed by the Chief Administrator of the Motor Vehicle Commission.

As amended and reported by the committee, this bill is identical to Senate Bill No. 781 (1R), also reported by the committee on this same date.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to make the penalties imposed upon an underage person who refuses to submit to a breathalyzer test

the same as the more severe penalties imposed on adult violators under section 2 of P.L.1981, c.512 (C.39:4-50.4a).