

N.J.S.A. 39:3-40

November 19, 2001

Note: For all offenses under this statute that involve an accident resulting in personal injury to another, the court is required to impose a period of imprisonment for not less than 45 days, or more than 180 days. N.J.S.A. 39:3-40(e). If the accident results in the death of another person, then the defendant shall be guilty of a crime of the third degree and the defendant's driver's license shall be suspended for an additional period of one year. If the accident results in serious bodily injury to another person, then the defendant shall be guilty of a crime of the fourth degree and the defendant's driver's license shall be suspended for an additional period of one year.

<i>Offense</i>	39:3-40 driving while license suspended- general provision
<i>1st Offense</i>	- \$500 fine, and - driver's license suspension not to exceed 6 months
<i>2nd Offense</i>	- \$750 fine, and - driver's license suspension not to exceed 6 months, and - imprisonment not more than 5 days, and - if 2nd offense occurs within 5 years of a conviction for N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)
<i>3rd or Subsequent Offense</i>	- \$1000 fine, and - driver's license suspension not to exceed 6 months, and - imprisonment for 10 days, and - if 3rd offense occurs within 5 years of a conviction of N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

Offense

39:3-40 (f) (1)

driving while license suspended due to conviction for N.J.S.A. 39:6B-2 (driving without insurance)

1st Offense

- \$1000 fine, and
- driver's license suspension not less than 12 months, nor more than 30 months, and
- may impose incarceration not to exceed 90 days

2nd Offense

- \$1250 fine, and
- driver's license suspension of not less than 12 months nor more than 30 months, and
- may impose period of incarceration of not more than 90 days, and
- if 2nd offense occurs within 5 years of a conviction for 39:3-40, then revocation of registration certificate for period driver's license is suspended (see N.J.S.A. 39:3-40.1)

3rd or Subsequent Offense

- \$1500 fine, and
- driver's license suspension of not less than 12 months nor more than 30 months, and
- incarceration of not less than 10 days, nor more than 90 days, and
- if 3rd offense occurs within 5 years of a conviction of N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

Note: The fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are imposed "notwithstanding" the general penalty provisions listed above. This chart is based on the assumption that the fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are in addition to those found in N.J.S.A. 39:3-40(a)-(e). This reading of the statute is suggested by State v. Wrotny, 221 N.J.Super. 226, 228-30 (App. Div. 1987), though Wrotny does not explicitly hold as much. For a contrary reading of N.J.S.A. 39:3-40(f)(1)-(3), see State v. Walsh, 236 N.J.Super. 151, 155 (Law Div. 1989), and State v. Rought, 221 N.J. Super. 42, 47 (Law Div. 1987), which both held that the fines and penalties of N.J.S.A. 39:3-40(f)(1)-(3) are a substitute for those provided by N.J.S.A. 39:3-40(a)-(e). Before imposing sentence for a conviction under N.J.S.A. 39:3-40(f)(1)-(3), please consult these cases and any other relevant cases decided after the date of this chart.

Offense

39:3-40 (f) (2)
driving while license suspended due to conviction for:

- 39:4-50 (driving while intoxicated), or
- 39:4-50.4a (refusal to submit to chemical test), or
- 39:5-30a to -30e (habitual offender)

1st Offense

- \$1000 fine, and
- driver's license suspension of not less than 12 months, nor more than 30 months, and
- incarceration of not less than 10 days, nor more than 90 days, and
- revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

2nd Offense

- \$1250 fine, and
- driver's license suspension for not less than 12 months, nor more than 30 months, and
- incarceration of not less than 10 days, nor more than 90 days, and
- revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

***3rd or Subsequent
Offense***

- \$1500 fine, and
- driver's license suspension for not less than 12 months, nor more than 30 months, and
- incarceration of not less than 10 days, nor more than 90 days, and
- revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

Note: The fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are imposed "notwithstanding" the general penalty provisions listed above. This chart is based on the assumption that the fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are in addition to those found in N.J.S.A. 39:3-40(a)-(e). This reading of the statute is suggested by State v. Wrotny, 221 N.J.Super. 226, 228-30 (App. Div. 1987), though Wrotny does not explicitly hold as much. For a contrary reading of N.J.S.A. 39:3-40(f)(1)-(3), see State v. Walsh, 236 N.J.Super. 151, 155 (Law Div. 1989), and State v. Rought, 221 N.J. Super. 42, 47 (Law Div. 1987), which both held that the fines and penalties of N.J.S.A. 39:3-40(f)(1)-(3) are a substitute for those provided by N.J.S.A. 39:3-40(a)-(e). Before imposing sentence for a conviction under N.J.S.A. 39:3-40(f)(1)-(3), please consult these cases and any other relevant cases decided after the date of this chart.

39:3-40 (f) (3)

Offense

driving while license suspended due to conviction for N.J.S.A. 39:4-50 or 39:4-50.4a, while driving in a school zone, or driving through a school crossing

1st Offense

- \$1000 fine, and
- driver's license suspension for not less than 12 months, nor more than 30 months, and
- incarceration of not less than 60 days nor more than 90 days

2nd Offense

- \$1250 fine, and
- driver's license suspension for not less than 12 months, nor more than 30 months, and
- incarceration of not less than 120 days nor more than 150 days
- if 2nd offense occurs within 5 years of a conviction for N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

3rd or Subsequent Offense

- \$1500 fine, and
- driver's license suspension for not less than 12 months, nor more than 24 months, plus may impose additional suspension not to exceed 6 months
- incarceration for 180 days, and
- if 3rd offense occurs within 5 years of a conviction of N.J.S.A. 39:3-40, then revocation of violator's registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

Note: The fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are imposed "notwithstanding" the general penalty provisions listed above. This chart is based on the assumption that the fines and penalties set forth in N.J.S.A. 39:3-40(f)(1)-(3) are in addition to those found in N.J.S.A. 39:3-40(a)-(e). This reading of the statute is suggested by State v. Wrotny, 221 N.J.Super. 226, 228-30 (App. Div. 1987), though Wrotny does not explicitly hold as much. For a contrary reading of N.J.S.A. 39:3-40(f)(1)-(3), see State v. Walsh, 236 N.J.Super. 151, 155 (Law Div. 1989), and State v. Rought, 221 N.J.Super. 42, 47 (Law Div. 1987), which both held that the fines and penalties of N.J.S.A. 39:3-40(f)(1)-(3) are a substitute for those provided by N.J.S.A. 39:3-40(a)-(e). Before imposing sentence for a conviction under N.J.S.A. 39:3-40(f)(1)-(3), please consult these cases and any other relevant cases decided after the date of this chart.

Offense

39:3-40 (g)

driving while license suspended for failure to pay surcharges under N.J.S.A. 17:29A-35

1st Offense

- \$500 fine, and
- driver's license suspension not to exceed 6 months, and
- \$3000 fine to be collected by DMV. Fine to be waived upon payment of total surcharge imposed

2nd Offense

- \$750 fine, and
- driver's license suspension not to exceed 6 months, and
- imprisonment not more than 5 days, and
- \$3000 fine to be collected by DMV. Fine to be waived upon payment of total surcharge imposed, and
- if 2nd offense occurs within 5 years of a conviction for N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

3rd or Subsequent Offense

- \$1000 fine, and
- driver's license suspension not to exceed 6 months, and
- imprisonment for 10 days, and
- \$3000 fine to be collected by DMV. Fine to be waived upon payment of total surcharge imposed
- if 3rd offense occurs within 5 years of a conviction of N.J.S.A. 39:3-40, then revocation of registration certificate for the period driver's license is suspended (see N.J.S.A. 39:3-40.1)

Offense

39:3-40 (i)

driving while license suspended for failure to respond to failure to appear notice or to pay parking judgment

1st Offense

- maximum \$100 fine upon proof that the violator has satisfied the parking tickets

N.J.S.A. 39:4-50 and N.J.S.A. 39:4-50.4a

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Offense

39:4-50

driving while intoxicated

1st Offense

- \$250 to \$400 fine, and
- IDRC 12 to 48 hours, and
- in court's discretion, imprisonment not exceeding 30 days, and
- driver's license suspension for not less than 6 months nor more than 1 year, and
- VCCB \$50, DDEF \$100, SNSF \$75, and
- may order participation in supervised visitation program as either a condition of probation or a form of community service, and
- may order installation of an interlock device for not less than 6 months nor more than 1 year, and
- satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied.

2nd Offense

- \$500 to \$1000 fine, and
 - imprisonment of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and
 - driver's license suspension for 2 years, and
 - community service for 30 days, and
 - VCCB \$50, DDEF \$100, SNSF \$75, and
 - may order participation in supervised visitation program as either a condition of probation or a form of community service, and
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- shall order installation of ignition interlock device for not less than 1 year nor more than 3 years, or shall revoke registration certificate and registration plates for 2 years, and

- satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied.

3rd or Subsequent Offense

- \$1000 fine, and

- imprisonment not less than 180 days, except that court may lower such term for each day, not exceeding 90 days, served performing community service, and

- driver's license suspension for 10 years, and

- VCCB \$50, DDEF \$100, SNSF \$75, and

- may order participation in supervised visitation program as either a condition of probation or a form of community service, and

- shall order installation of ignition interlock device for not less than 1 year nor more than 3 years, or shall revoke registration certificate and registration plates for 10 years, and

- satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied.

Please Note: If the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes. If the third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

Offense

39:4-50

- driving while intoxicated while on school property (elementary, secondary, or school board), or
- within 1000 feet of school property, or
- driving through school crossing

(penalty provision at N.J.S.A. 39:4-50 (g))

1st Offense

- not less than \$500 nor more than \$800 fine, and
- imprisonment for not more than 60 days, and
- driver's license suspension not less than 1 year nor more than 2 years, and
- VCCB \$50, DDEF \$100, SNSF \$75, and
- may order installation of interlock device for not less than 6 months nor more than 1 year, and
- satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied.

2nd Offense

- not less than \$1000 nor more than \$2000 fine, and
 - imprisonment for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, and
 - driver's license suspension not less than 4 years, and
 - perform community service for 60 days, and
 - VCCB \$50, DDEF \$100, SNSF \$75, and
 - may order installation of ignition interlock device for not less than 1 year nor more than 3 years, and
 - satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied
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3rd or Subsequent Offense

- \$2000 fine, and
- imprisonment 180 days, and
- driver's license suspension 20 years to start upon completion of any prison sentence, and
- VCCB \$50, DDEF \$100, SNSF \$75, and
- may order installation of ignition interlock device for not less than 1 year nor more than 3 years, and
- satisfy the screening, evaluation, and referral requirements of the IDRC. If these requirements are not met, then mandatory 2-day term of imprisonment and driver's license suspension until requirements are satisfied.

Please Note: If the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes. If the third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

Offense

39:4-50.4a

- refusal to submit to chemical test

(penalty provision at N.J.S.A. 39:4-50.4a (a))

1st Offense

- not less than \$250 nor more than \$500 fine, and

- driver's license suspension 6 months, and

- DDEF \$100, and

- shall refer offender to IDRC.

2nd Offense

- not less than \$250 nor more than \$500 fine, and

- driver's license suspension for 2 years, and

- DDEF \$100, and

- shall refer offender to IDRC.

3rd or Subsequent Offense

- not less than \$250 nor more than \$500 fine, and

- driver's license suspension for 10 years, and

- DDEF \$100, and

- shall refer offender to IDRC.

Offense

39:4-50.4a

- refusal to submit to chemical test, if
 - on school property (elementary, secondary, or school board), or
 - within 1000 feet school property, or
 - driving through school crossing

(penalty provision at N.J.S.A. 39:4-50.4a (b))

1st Offense

- not less than \$500 nor more than \$1000 fine, and
- driver's license suspension 1 year, and
- DDEF \$100, and
- shall refer offender to IDRC.

2nd Offense

- not less than \$500 nor more than \$1000 fine, and
- driver's license suspension 4 years, and
- DDEF \$100, and
- shall refer offender to IDRC.

3rd or Subsequent Offense

- not less than \$500 nor more than \$1000 fine, and
 - driver's license suspension 20 years, and
 - DDEF \$100, and
 - shall refer offender to IDRC.
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