

[First Reprint]

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

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

ADOPTED JUNE 17, 2019

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**  
**District 22 (Middlesex, Somerset and Union)**  
**Assemblyman JOSEPH A. LAGANA**  
**District 38 (Bergen and Passaic)**  
**Assemblywoman JOANN DOWNEY**  
**District 11 (Monmouth)**  
**Assemblyman DANIEL R. BENSON**  
**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Senators Cardinale, Diegnan, Stack, Assemblywomen Chaparro,**  
**N.Munoz, Mosquera, Assemblymen Zwicker, DePhillips, Holley,**  
**Assemblywomen Reynolds-Jackson, Murphy, Assemblyman Karabinchak**  
**and Assemblywoman Quijano**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 20, 2019.

(Sponsorship Updated As Of: 6/21/2019)

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

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

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

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

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

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

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

36 e. Reportedly, ignition interlock devices have prevented more  
37 than 73,740 attempts to drive with a BAC over the legal limit of  
38 0.08 percent in this State over the past 11 years.

39 f. Numerous organizations support requiring the use of ignition  
40 interlock devices by all convicted drunk drivers, including all first-  
41 time offenders, including: Mothers Against Drunk Driving,  
42 Advocates for Auto and Highway Safety, American Automobile  
43 Association, American Trucking Association, Auto Alliance,

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

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

1 Centers for Disease Control and Prevention, Foundation for  
2 Advancing Alcohol Responsibility, Insurance Institute for Highway  
3 Safety, International Association of Chiefs of Police, National  
4 Academy of Sciences, National Football League, National Safety  
5 Council, and National Transportation Safety Board.

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

9

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

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

23 (1) For the first offense:

24 (i) if the person's blood alcohol concentration is 0.08% or  
25 higher but less than 0.10%, or the person operates a motor vehicle  
26 while under the influence of intoxicating liquor, or the person  
27 permits another person who is under the influence of intoxicating  
28 liquor to operate a motor vehicle owned by him or in his custody or  
29 control or permits another person with a blood alcohol  
30 concentration of 0.08% or higher but less than 0.10% to operate a  
31 motor vehicle, to a fine of not less than \$250 nor more than \$400  
32 and a period of detainment of not less than 12 hours nor more than  
33 48 hours spent during two consecutive days of not less than six  
34 hours each day and served as prescribed by the program  
35 requirements of the Intoxicated Driver Resource Centers established  
36 under subsection (f) of this section and, in the discretion of the  
37 court, a term of imprisonment of not more than 30 days **【and】** . In  
38 addition, the court shall **【forthwith】** order the person to forfeit  
39 **【his】** the right to operate a motor vehicle over the highways of this  
40 State **【for a period of three months】** until the person installs an  
41 ignition interlock device in one motor vehicle the person owns,  
42 leases, or principally operates, whichever the person most often  
43 operates, for the purpose of complying with the provisions of  
44 P.L.1999, c.417 (C.39:4-50.16 et al.);

45 (ii) if the person's blood alcohol concentration is 0.10% or  
46 higher, or the person operates a motor vehicle while under the  
47 influence of narcotic, hallucinogenic or habit-producing drug, or the

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

12 in the case of a person who is convicted of operating a motor  
13 vehicle while under the influence of a narcotic, hallucinogenic or  
14 habit-producing drug or permitting another person who is under the  
15 influence of narcotic, hallucinogenic or habit-producing drug to  
16 operate a motor vehicle owned by the person or under the person's  
17 custody or control, the person shall **[forthwith]** forfeit **[his]** the  
18 right to operate a motor vehicle over the highways of this State for a  
19 period of not less than seven months nor more than one year;

20 in the case of a person whose blood alcohol concentration is  
21 0.10% or higher but less than 0.15%, the person shall forfeit the  
22 right to operate a motor vehicle over the highways of this State until  
23 the person installs an ignition interlock device in one motor vehicle  
24 the person owns, leases, or principally operates, whichever the  
25 person most often operates, for the purpose of complying with the  
26 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

27 in the case of a person whose blood alcohol concentration is  
28 0.15% or higher, the person shall forfeit the right to operate a motor  
29 vehicle over the highways of this State for a period of not less than  
30 four months or more than six months following installation of an  
31 ignition interlock device in one motor vehicle the person owns,  
32 leases, or principally operates, whichever the person most often  
33 operates, for the purpose of complying with the provisions of  
34 P.L.1999, c.417 (C.39:4-50.16 et al.);

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

38 (2) For a second violation, a person shall be subject to a fine of  
39 not less than \$500 nor more than \$1,000, and shall be ordered by  
40 the court to perform community service for a period of 30 days,  
41 which shall be of such form and on **[such]** terms **[as]** the court  
42 shall deem appropriate under the circumstances, and shall be  
43 sentenced to imprisonment for a term of not less than 48  
44 consecutive hours, which shall not be suspended or served on  
45 probation, **[nor]** or more than 90 days, and shall forfeit **[his]** the  
46 right to operate a motor vehicle over the highways of this State for a

1 period of not less than one year or more than two years upon  
2 conviction~~], and after]~~.

3 ~~After~~ the expiration of ~~the license forfeiture~~ period, ~~he~~  
4 ~~the person~~ may make application to the Chief Administrator of the  
5 New Jersey Motor Vehicle Commission for a license to operate a  
6 motor vehicle, which application may be granted at the discretion of  
7 the chief administrator, consistent with subsection (b) of this  
8 section. For a second violation, a person also shall be required to  
9 install an ignition interlock device under the provisions of P.L.1999,  
10 c.417 (C.39:4-50.16 et al.).

11 (3) For a third or subsequent violation, a person shall be subject  
12 to a fine of \$1,000, and shall be sentenced to imprisonment for a  
13 term of not less than 180 days in a county jail or workhouse, except  
14 that the court may lower such term for each day, not exceeding 90  
15 days, served participating in a drug or alcohol inpatient  
16 rehabilitation program approved by the Intoxicated Driver Resource  
17 Center and shall thereafter forfeit ~~his~~ ~~the~~ right to operate a motor  
18 vehicle over the highways of this State for ~~10~~ eight years.

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

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

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

44 A conviction of a violation of a law of a substantially similar  
45 nature in another jurisdiction, regardless of whether that jurisdiction  
46 is a signatory to the Interstate Driver License Compact pursuant to  
47 P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior  
48 conviction under this subsection unless the defendant can

1 demonstrate by clear and convincing evidence that the conviction in  
2 the other jurisdiction was based exclusively upon a violation of a  
3 proscribed blood alcohol concentration of less than 0.08%.

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

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

35 (b) A person convicted under this section must satisfy the  
36 screening, evaluation, referral, program and fee requirements of the  
37 Division of Mental Health and Addiction Services' Intoxicated  
38 Driving Program Unit, and of the Intoxicated Driver Resource  
39 Centers and a program of alcohol and drug education and highway  
40 safety, as prescribed by the chief administrator. The sentencing  
41 court shall inform the person convicted that failure to satisfy such  
42 requirements shall result in a mandatory two-day term of  
43 imprisonment in a county jail and a driver license revocation or  
44 suspension and continuation of revocation or suspension until such  
45 requirements are satisfied, unless stayed by court order in  
46 accordance with the Rules Governing the Courts of the State of  
47 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall  
48 forward to the Division of Mental Health and Addiction Services'

1 Intoxicated Driving Program Unit a copy of a person's conviction  
2 record. A fee of \$100 shall be payable to the Alcohol Education,  
3 Rehabilitation and Enforcement Fund established pursuant to  
4 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the  
5 Intoxicated Driving Program Unit.

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

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

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

41 (f) The counties, in cooperation with the Division of Mental  
42 Health and Addiction Services and the commission, but subject to  
43 the approval of the Division of Mental Health and Addiction  
44 Services, shall designate and establish on a county or regional basis  
45 Intoxicated Driver Resource Centers. These centers shall have the  
46 capability of serving as community treatment referral centers and as  
47 court monitors of a person's compliance with the ordered treatment,  
48 service alternative or community service. All centers established

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

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

20 Required detention periods at the Intoxicated Driver Resource  
21 Centers shall be determined according to the individual treatment  
22 classification assigned by the Intoxicated Driving Program Unit.  
23 Upon attendance at an Intoxicated Driver Resource Center, a person  
24 shall be required to pay a per diem fee of \$75 for the first offender  
25 program or a per diem fee of \$100 for the second offender program,  
26 as appropriate. Any increases in the per diem fees after the first full  
27 year shall be determined pursuant to rules and regulations adopted  
28 by the Commissioner of Health in consultation with the Governor's  
29 Council on Alcoholism and Drug Abuse pursuant to the  
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
31 seq.).

32 The centers shall conduct a program of alcohol and drug  
33 education and highway safety, as prescribed by the chief  
34 administrator.

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

39 (g) **【**When a violation of this section occurs while:

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

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

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



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

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

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

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

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

1 which have agreed to participate in the program under the  
2 supervision of the facility's personnel and the probation department:

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

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

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

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

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

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

43 (i) In addition to any other fine, fee, or other charge imposed  
44 pursuant to law, the court shall assess a person convicted of a  
45 violation of the provisions of this section a surcharge of \$125, of  
46 which amount \$50 shall be payable to the municipality in which the  
47 conviction was obtained, \$50 shall be payable to the Treasurer of  
48 the State of New Jersey for deposit into the General Fund, and \$25

1 which shall be payable as follows: in a matter where the summons  
2 was issued by a municipality's law enforcement agency, to that  
3 municipality to be used for the cost of equipping police vehicles  
4 with mobile video recording systems pursuant to the provisions of  
5 section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the  
6 summons was issued by a county's law enforcement agency, to that  
7 county; and in a matter where the summons was issued by a State  
8 law enforcement agency, to the General Fund.

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

10  
11 3. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to  
12 read as follows:

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

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

28 (2) if the refusal was in connection with a second offense under  
29 this section, 【in which case the revocation period shall be for two  
30 years or unless】, to forfeit the right to operate a motor vehicle over  
31 the highways of this State for a period of not less than one year or  
32 more than two years following the installation of an ignition  
33 interlock device in one motor vehicle owned, leased, or principally  
34 operated by the person, whichever the person most often operates,  
35 for the purpose of complying with the provisions of P.L.1999, c.417  
36 (C.39:4-50.16 et al.);

37 (3) if the refusal was in connection with a third or subsequent  
38 offense under this section 【in which case the revocation shall be for  
39 ten years】, to forfeit the right to operate a motor vehicle over the  
40 highways of this State for a period of eight years following the  
41 installation of an ignition interlock device in one motor vehicle  
42 owned, leased, or principally operated by the person, whichever the  
43 person most often operates, for the purpose of complying with the  
44 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A conviction  
45 or administrative determination of a violation of a law of a  
46 substantially similar nature in another jurisdiction, regardless of  
47 whether that jurisdiction is a signatory to the Interstate Driver

1 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),  
2 shall constitute a prior conviction under this section.

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

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

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

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

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

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

13 It shall not be relevant to the imposition of sentence pursuant to  
14 paragraph (1) or (2) of this subsection that the defendant was  
15 unaware that the prohibited conduct took place while on or within  
16 1,000 feet of any school property or while driving through a school  
17 crossing. Nor shall it be relevant to the imposition of sentence that  
18 no juveniles were present on the school property or crossing zone at  
19 the time of the offense or that the school was not in session.】

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

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

23

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

26 2. a. (1) Except as provided in paragraph (2) of this  
27 subsection, (a) in sentencing a first offender under subparagraph (i)  
28 of paragraph (1) of subsection (a) of R.S.39:4-50, whose blood  
29 alcohol concentration was at least 0.08% but less than 0.10%, or  
30 who was otherwise under the influence of intoxicating liquor, the  
31 court [may] shall order, in addition to any other penalty imposed  
32 by that section, the installation of an ignition interlock device in  
33 [the] one motor vehicle owned, leased, or principally operated by  
34 the offender [following the expiration of the period of license  
35 suspension imposed under that section. In sentencing a first  
36 offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
37 court shall order, in addition to any other penalty imposed by that  
38 section, the installation of an ignition interlock device in the motor  
39 vehicle principally operated by the offender during and following  
40 the expiration of the period of license suspension imposed under  
41 that section. The device], whichever the offender most often  
42 operates, which shall remain installed for [not less than six months  
43 or more than one year, commencing immediately upon the return of  
44 the offender's driver's license after the required period of  
45 suspension has been served] three months.

46 (b) In sentencing a first offender under subparagraph (ii) of  
47 paragraph (1) of subsection (a) of R.S.39:4-50 whose blood alcohol

1 concentration was 0.10% or higher, but less than 0.15%, the court  
2 shall order, in addition to any other penalty imposed, the  
3 installation of an ignition interlock device in one motor vehicle  
4 owned, leased, or principally operated by the offender, whichever  
5 the offender most often operates, which shall remain installed for  
6 not less than seven months or more than one year.

7 (2) If the first offender's blood alcohol concentration is 0.15%  
8 or higher, or the offender violated section 2 of P.L.1981, c.512  
9 (C.39:4-50.4a), the court shall order, in addition to any other  
10 penalty imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512  
11 (C.39:4-50.4a), the installation of an ignition interlock device in  
12 **【the】** one motor vehicle owned, leased, or principally operated by  
13 the offender, whichever the offender most often operates, during  
14 and following the expiration of the period of license 【suspension】  
15 forfeiture imposed under 【that section】 those sections. In addition  
16 to installation during the period of license suspension, the device  
17 shall remain installed for not less than **【six】** nine months or more  
18 than **【one year】** 15 months, commencing immediately upon  
19 installation of the device and the return of the offender's driver's  
20 license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18)  
21 after the required period of 【suspension】 forfeiture has been served.

22 b. In sentencing a second or subsequent offender under  
23 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
24 court shall order, in addition to any other penalty imposed by that  
25 section, the installation of an ignition interlock device in the motor  
26 vehicle principally operated by the offender during and following  
27 the expiration of the period of license **【suspension】** forfeiture  
28 imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
29 50.4a). In addition to installation during the period of license  
30 **【suspension】** forfeiture, the device shall remain installed for not  
31 less than **【one year】** two years or more than **【three】** four years,  
32 commencing immediately upon installation of the device and the  
33 return of the offender's driver's license pursuant to section 3 of  
34 P.L.1999, c.417 (C.39:4-50.18) after the required period of  
35 **【suspension】** forfeiture has been served.

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

39 The offender shall provide to the court information identifying  
40 the motor vehicle on which the ignition interlock is to be installed,  
41 and any other information deemed relevant by the court, including,  
42 but not limited to, the offender's complete name, address, date of  
43 birth, eye color, and gender. An offender who does not own, lease,  
44 or operate a motor vehicle shall attest to this to the court. A  
45 violation of this provision shall constitute perjury pursuant to  
46 N.J.S.2C:28-1. An offender immediately shall notify the court of

1 the purchase, lease, or access to operation of a motor vehicle and  
2 install an ignition interlock device in the vehicle.

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

7 d. As used in **[this act]** P.L.1999, c.417 (C.39:4-50.16 et al.),  
8 "ignition interlock device" or "device" means a blood alcohol  
9 equivalence measuring device which will prevent a motor vehicle  
10 from starting if the operator's blood alcohol **[content]** concentration  
11 exceeds a predetermined level when the operator blows into the  
12 device.

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

17 f. A person who does not possess a valid driver's license issued  
18 by this State at the time of the imposition of a sentence pursuant to  
19 this section shall be prohibited from obtaining a driver's license for  
20 the duration of that sentence. Upon obtaining a driver's license, the  
21 person shall be sentenced to a period of ignition interlock device  
22 installation pursuant to the provisions of this section.

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

24

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

27 3. a. The court shall notify the **[Director]** Chief Administrator  
28 of the **[Division of]** New Jersey Motor **[Vehicles]** Vehicle  
29 Commission when a person has been ordered to install an ignition  
30 interlock device in a vehicle **[owned, leased or regularly operated**  
31 **by the person]** pursuant to the provisions of P.L.1999, c.417  
32 (C.39:4-50.16 et al.). The **[division]** commission shall require that  
33 the device be installed before **[reinstatement]** restoration of the  
34 person's driver's license that has been **[suspended]** forfeited  
35 pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
36 50.4a).

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

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

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

6       (2) the person complied with all required maintenance, repair,  
7 calibration, monitoring, and inspection requirements related to the  
8 device.

9       d. If the vendor does not issue a certification to the person  
10 because there were two or more violations of paragraph (1) of  
11 subsection c. of this section, the vendor shall forward the violation  
12 information to the chief administrator and the court. The court shall  
13 decide whether to extend the period of ignition interlock device  
14 installation for up to 90 days or issue the certification to the chief  
15 administrator.

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

17  
18       <sup>1</sup>6. (New section) The chief administrator semiannually shall  
19 issue a summary report containing the following information  
20 concerning offenders required to install an ignition interlock device  
21 pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17):

22       a. the total number of offenders ordered to install an ignition  
23 interlock categorized by the offender's number of convictions and  
24 place of residence;

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

32       c. the average length of time an offender maintains installation  
33 of the device categorized by the offender's number of convictions;  
34 and

35       d. the percent of offenders who remove the ignition interlock  
36 device because they are unable to afford continued installation.<sup>1</sup>

37  
38       <sup>1</sup>[6] 7<sup>1</sup>. This act shall take effect on the first day of the fourth  
39 month after enactment and shall apply to any offense occurring on  
40 or after that date<sup>1</sup>; the act shall expire on the first day of the fifth  
41 year next following the effective date<sup>1</sup>. The Chief Administrator of  
42 the New Jersey Motor Vehicle Commission may take any  
43 anticipatory administrative action in advance of that date as shall be  
44 necessary to implement the provisions of this act.