

SENATE, No. 2427

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JANUARY 8, 2013

Sponsored by:

Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senator Pou

SYNOPSIS

Requires court to order convicted drunk driver to install ignition interlock device or to suspend the offender's driver's license.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/29/2013)

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2

1 AN ACT concerning ignition interlock devices and amending
2 various parts of the statutory law.

3

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

6

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

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

19 (1) For the first offense:

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

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

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.

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

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

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

33 (3) For a third or subsequent violation, a person shall be subject
34 to a fine of \$1,000.00, and shall be sentenced to imprisonment for a
35 term of not less than 180 days in a county jail or workhouse, except
36 that the court may lower such term for each day **[, not exceeding 90**
37 **days,]** served participating in a drug or alcohol inpatient
38 rehabilitation program approved by the Intoxicated Driver Resource
39 Center **[and thereafter]** . In addition, the court shall order the
40 person to forfeit his right to operate a motor vehicle over the
41 highways of this State for not less than 10 years **[. For a third or**
42 **subsequent violation, a person also shall be required]** or more than
43 20 years or to install an ignition interlock device **[under]** pursuant
44 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

45 As used in this section, the phrase "narcotic, hallucinogenic or
46 habit-producing drug" includes an inhalant or other substance
47 containing a chemical capable of releasing any toxic vapors or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (cf: P.L.2009, c.201, s.1)

22

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

25 2. a. Except as provided in subsection b. of this section, the
26 municipal court shall revoke the right to operate a motor vehicle of
27 any operator who, after being arrested for a violation of R.S.39:4-50
28 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to
29 submit to a test provided for in section 2 of P.L.1966, c.142
30 (C.39:4-50.2) when requested to do so, or order the person to install
31 an ignition interlock device pursuant to the provisions of P.L.1999,
32 c.417 (C.39:4-50.16). Any revocation imposed shall be for not less
33 than seven months or more than one year unless the refusal was in
34 connection with a second offense under this section, in which case
35 the revocation period shall be for two years or unless the refusal
36 was in connection with a third or subsequent offense under this
37 section, in which case the revocation shall be for ten years. A
38 conviction or administrative determination of a violation of a law of
39 a substantially similar nature in another jurisdiction, regardless of
40 whether that jurisdiction is a signatory to the Interstate Driver
41 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),
42 shall constitute a prior conviction under this section.

43 The municipal court shall determine by a preponderance of the
44 evidence whether the arresting officer had probable cause to believe
45 that the person had been driving or was in actual physical control of
46 a motor vehicle on the public highways or quasi-public areas of this
47 State while the person was under the influence of intoxicating
48 liquor or a narcotic, hallucinogenic, or habit-producing drug or

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

27 b. For a first offense, the fine imposed upon the convicted
28 person shall be not less than \$600 or more than \$1,000 and the
29 period of license suspension shall be not less than one year or more
30 than two years; for a second offense, a fine of not less than \$1,000
31 or more than \$2,000 and a license suspension for a period of four
32 years; and for a third or subsequent offense, a fine of \$2,000 and a
33 license suspension for a period of 20 years when a violation of this
34 section occurs while:

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

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

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

44 A map or true copy of a map depicting the location and
45 boundaries of the area on or within 1,000 feet of any property used
46 for school purposes which is owned by or leased to any elementary
47 or secondary school or school board produced pursuant to section 1

1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
2 paragraph (1) of this subsection.

3 It shall not be relevant to the imposition of sentence pursuant to
4 paragraph (1) or (2) of this subsection that the defendant was
5 unaware that the prohibited conduct took place while on or within
6 1,000 feet of any school property or while driving through a school
7 crossing. Nor shall it be relevant to the imposition of sentence that
8 no juveniles were present on the school property or crossing zone at
9 the time of the offense or that the school was not in session.
10 (cf: P.L.2009, c.201, s.5)

11

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

14 2. a. [(1) Except as provided in paragraph (2) of this
15 subsection, in] In sentencing a first offender under R.S.39:4-50, the
16 court [may] shall order, in addition to any other penalty imposed
17 by that section, the installation of an ignition interlock device in the
18 motor vehicle owned, leased, or principally operated by the
19 offender [following the expiration of the period of license
20 suspension imposed under that section]. In sentencing a first
21 offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
22 court shall order, in addition to any other penalty imposed by that
23 section, the installation of an ignition interlock device in the motor
24 vehicle owned, leased, or principally operated by the offender
25 [during and following the expiration of the period of license
26 suspension imposed under that section. The] If the offender's
27 blood alcohol concentration is 0.10% or higher the device shall
28 remain installed for not less than [six] seven months or more than
29 one year [, commencing immediately upon the return of the
30 offender's driver's license after the required period of suspension
31 has been served] . If the offender's blood alcohol concentration is
32 0.08% or higher but less than 0.10%, the device shall remain
33 installed for not less than three months or more than six months. If
34 the offender does not own or lease a motor vehicle or there is no
35 vehicle the offender principally operates, the offender shall forfeit
36 the right to operate a motor vehicle pursuant to the provisions of
37 R.S.39:4-50.

38 [(2) If the first offender's blood alcohol concentration is 0.15%
39 or higher, the court shall order, in addition to any other penalty
40 imposed under R.S.39:4-50, the installation of an ignition interlock
41 device in the motor vehicle principally operated by the offender
42 during and following the expiration of the period of license
43 suspension imposed under that section . In addition to installation
44 during the period of license suspension, the device shall remain
45 installed for not less than six months or more than one year,
46 commencing immediately upon the return of the offender's driver's
47 license after the required period of suspension has been served.]

1 b. (1) In sentencing a second [or subsequent] offender under
2 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
3 court shall order, in addition to any other penalty imposed by that
4 section, the installation of an ignition interlock device in the motor
5 vehicle owned, leased, or principally operated by the offender
6 [during and following the expiration of the period of license
7 suspension imposed under R.S.39:4-50 or section 2 of P.L.1981,
8 c.512 (C.39:4-50.4a). In addition to installation during the period of
9 license suspension, the device shall remain installed for not less
10 than one year or more than three years, commencing immediately
11 upon the return of the offender's driver's license after the required
12 period of suspension has been served.] for not less than two years
13 and not more than four years. If the offender does not own or lease
14 a motor vehicle, or there is no motor vehicle the offender
15 principally operates, the offender shall forfeit the right to operate a
16 motor vehicle pursuant to the provisions of R.S.39:4-50.

17 (2) In sentencing a third or subsequent offender, the court shall
18 order the installation of an ignition interlock device in the motor
19 vehicle owned, leased or principally operated by the offender for
20 not less than 10 years or more than 20 years. If the offender does
21 not own or lease a motor vehicle, or if there is no motor vehicle that
22 the offender principally operates, the offender shall forfeit the right
23 to operate a motor vehicle pursuant to the provisions of R.S.39:4-
24 50.

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

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

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

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

38

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

41 3. The court shall notify the [Director of the Division of Motor
42 Vehicles] Chief Administrator when a person has been ordered to
43 install an interlock device in a vehicle owned, leased or [regularly]
44 principally operated by the person. [The division shall require that
45 the device be installed before reinstatement of the person's driver's
46 license that has been suspended pursuant to R.S.39:4-50.] The
47 [division] commission shall imprint a notation on the driver's

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1 license stating that the person shall not operate a motor vehicle
2 unless it is equipped with an interlock device and shall enter this
3 requirement in the person's driving record.

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

5

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

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

22 b. A person is a disorderly person who:

23 (1) blows into an interlock device or otherwise starts a motor
24 vehicle equipped with such a device for the purpose of providing an
25 operable motor vehicle to a person who has been ordered by the
26 court to install the device in the vehicle;

27 (2) tampers or in any way circumvents the operation of an
28 interlock device; or

29 (3) knowingly rents, leases or lends a motor vehicle not
30 equipped with an interlock device to a person who has been ordered
31 by the court to install an interlock device in a vehicle he owns,
32 leases or regularly operates.

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

38 (cf: P.L.2009, c.201, s.3)

39

40 6. This act shall take effect on the first day of the fourth month
41 after enactment.

42

43

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STATEMENT

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46 Under the provisions of this bill, the court is required to order an
47 intoxicated driver to install an ignition interlock device (IID) in a
48 motor vehicle the offender owns, leases or principally operates for a

1 period specified in the bill. An offender who does not own or lease
2 a motor vehicle, or have access to a vehicle which he or she
3 principally operates, would suffer the loss of his or her driver's
4 license.

5 For a first offender whose blood alcohol concentration (BAC) is
6 greater than .08% but less than .10%, the IID would be installed for
7 three to six months; if the first offender's BAC is greater than .10%,
8 the device would be installed for seven months to one year. A
9 second offender would be required to install the IID for two to four
10 years. In the case of a third or subsequent offender, the IID would
11 be installed for 10 to 20 years. If the offender does not own or
12 lease a motor vehicle or have access to a vehicle that he or she
13 principally operates in which an IID could be installed, the
14 offender's driver's license would be suspended for the periods
15 prescribed in R.S.39:4-50.

16 The bill also revises the required period of suspension for second
17 and third offenders under current law, so that the suspension period
18 will be the same as the period mandated for IID installation. At
19 present, a second offender offender's license is suspended for two
20 years; the bill requires a second offender's driver's license to be
21 suspended for two to four years. Current law requires a third or
22 subsequent offender's license to be suspended for 10 years; under
23 the bill, a third or subsequent offender's license would be
24 suspended for 10 to 20 years.

25 The bill also permits a third or subsequent offender to serve the
26 entire prison term that the court may impose, up to 180 days, in an
27 inpatient rehabilitation program. Current law permits the court to
28 reduce the prison term up to a maximum of 90 days for each day
29 served in an inpatient program.

30 Any violation of the interlock requirements by the offender
31 would be a disorderly person's offense, and those penalties would
32 be in addition to the driver's license suspension required under
33 current law.