

SENATE, No. 824

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators Cardinale and Diegnan

SYNOPSIS

Revises penalties for drunk driving and ignition interlock device violations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 9/14/2018)

S824 SCUTARI

2

1 AN ACT concerning drunk driving and ignition interlock devices
2 and amending R.S.39:4-50, P.L.1981, c.512, and P.L.1999,
3 c.417.
4

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

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

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

20 (1) For the first offense:

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

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

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

Matter underlined thus is new matter.

1 more than 48 hours spent during two consecutive days of not less
2 than six hours each day and served as prescribed by the program
3 requirements of the Intoxicated Driver Resource Centers established
4 under subsection (f) of this section and, in the discretion of the
5 court, a term of imprisonment of not more than 30 days and shall
6 forthwith forfeit his right to operate a motor vehicle over the
7 highways of this State for a period of ~~not less than seven months~~
8 ~~nor more than one year~~ 45 days if the person's blood alcohol
9 concentration was less than 0.15 percent and a period of 90 days if
10 the person's blood alcohol concentration was 0.15 percent or
11 higher;

12 (iii) For a first offense, a person also shall be subject to the
13 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

14 (2) For a second violation, a person shall be subject to a fine of
15 not less than \$500 nor more than \$1,000, and shall be ordered by
16 the court to perform community service for a period of 30 days,
17 which shall be of such form and on such terms as the court shall
18 deem appropriate under the circumstances, and shall be sentenced to
19 imprisonment for a term of not less than 48 consecutive hours,
20 which shall not be suspended or served on probation, nor more than
21 90 days, and shall forfeit his right to operate a motor vehicle over
22 the highways of this State for a period of two years upon
23 conviction, and, after the expiration of said period, he may make
24 application to the Chief Administrator of the New Jersey Motor
25 Vehicle Commission for a license to operate a motor vehicle, which
26 application may be granted at the discretion of the chief
27 administrator, consistent with subsection (b) of this section. For a
28 second violation, a person also shall be required to install an
29 ignition interlock device under the provisions of P.L.1999, c.417
30 (C.39:4-50.16 et al.).

31 (3) For a third or subsequent violation, a person shall be subject
32 to a fine of \$1,000, and shall be sentenced to imprisonment for a
33 term of not less than 180 days in a county jail or workhouse, except
34 that the court may lower such term for each day, not exceeding 90
35 days, served participating in a drug or alcohol inpatient
36 rehabilitation program approved by the Intoxicated Driver Resource
37 Center and shall thereafter forfeit his right to operate a motor
38 vehicle over the highways of this State for 10 years. For a third or
39 subsequent violation, a person also shall be required to install an
40 ignition interlock device under the provisions of P.L.1999, c.417
41 (C.39:4-50.16 et al.).

42 As used in this section, the phrase "narcotic, hallucinogenic or
43 habit-producing drug" includes an inhalant or other substance
44 containing a chemical capable of releasing any toxic vapors or
45 fumes for the purpose of inducing a condition of intoxication, such
46 as any glue, cement or any other substance containing one or more
47 of the following chemical compounds: acetone and acetate, amyl
48 nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl

1 nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol,
2 ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or
3 isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous
4 oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl
5 nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or
6 any other chemical substance capable of causing a condition of
7 intoxication, inebriation, excitement, stupefaction or the dulling of
8 the brain or nervous system as a result of the inhalation of the
9 fumes or vapors of such chemical substance.

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

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

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

46 A person who has been convicted of a previous violation of this
47 section need not be charged as a second or subsequent offender in
48 the complaint made against him in order to render him liable to the

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

7 (b) A person convicted under this section must satisfy the
8 screening, evaluation, referral, program and fee requirements of the
9 Division of Mental Health and Addiction Services' Intoxicated
10 Driving Program Unit, and of the Intoxicated Driver Resource
11 Centers and a program of alcohol and drug education and highway
12 safety, as prescribed by the chief administrator. The sentencing
13 court shall inform the person convicted that failure to satisfy such
14 requirements shall result in a mandatory two-day term of
15 imprisonment in a county jail and a driver license revocation or
16 suspension and continuation of revocation or suspension until such
17 requirements are satisfied, unless stayed by court order in
18 accordance with the Rules Governing the Courts of the State of
19 New Jersey, or R.S.39:5-22. Upon sentencing, the court shall
20 forward to the Division of Mental Health and Addiction Services'
21 Intoxicated Driving Program Unit a copy of a person's conviction
22 record. A fee of \$100 shall be payable to the Alcohol Education,
23 Rehabilitation and Enforcement Fund established pursuant to
24 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the
25 Intoxicated Driving Program Unit.

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

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

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

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

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

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

39 Required detention periods at the Intoxicated Driver Resource
40 Centers shall be determined according to the individual treatment
41 classification assigned by the Intoxicated Driving Program Unit.
42 Upon attendance at an Intoxicated Driver Resource Center, a person
43 shall be required to pay a per diem fee of \$75 for the first offender
44 program or a per diem fee of \$100 for the second offender program,
45 as appropriate. Any increases in the per diem fees after the first full
46 year shall be determined pursuant to rules and regulations adopted
47 by the Commissioner of **Health** Human Services in consultation
48 with the Governor's Council on Alcoholism and Drug Abuse

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.).

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

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

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

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

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

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

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

46 It shall not be relevant to the imposition of sentence pursuant to
47 paragraph (1) or (2) of this subsection that the defendant was
48 unaware that the prohibited conduct took place while on or within

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

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

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

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

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

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

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

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

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

12 (i) In addition to any other fine, fee, or other charge imposed
13 pursuant to law, the court shall assess a person convicted of a
14 violation of the provisions of this section a surcharge of \$125, of
15 which amount \$50 shall be payable to the municipality in which the
16 conviction was obtained, \$50 shall be payable to the Treasurer of
17 the State of New Jersey for deposit into the General Fund, and \$25
18 which shall be payable as follows: in a matter where the summons
19 was issued by a municipality's law enforcement agency, to that
20 municipality to be used for the cost of equipping police vehicles
21 with mobile video recording systems pursuant to the provisions of
22 section 1 of P.L.2014, c.54 (C.40A:14-118.1); in a matter where the
23 summons was issued by a county's law enforcement agency, to that
24 county; and in a matter where the summons was issued by a State
25 law enforcement agency, to the General Fund.

26 (cf: P.L.2014, c.54, s.2)

27

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

30 2. a. Except as provided in subsection b. of this section, the
31 municipal court shall revoke the right to operate a motor vehicle of
32 any operator who, after being arrested for a violation of R.S.39:4-50
33 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to
34 submit to a test provided for in section 2 of P.L.1966, c.142
35 (C.39:4-50.2) when requested to do so, for **not less than seven**
36 **months or more than one year** 90 days unless the refusal was in
37 connection with a second offense under this section, in which case
38 the revocation period shall be for two years or unless the refusal
39 was in connection with a third or subsequent offense under this
40 section in which case the revocation shall be for ten years. A
41 conviction or administrative determination of a violation of a law of
42 a substantially similar nature in another jurisdiction, regardless of
43 whether that jurisdiction is a signatory to the Interstate Driver
44 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),
45 shall constitute a prior conviction under this section.

46 The municipal court shall determine by a preponderance of the
47 evidence whether the arresting officer had probable cause to believe
48 that the person had been driving or was in actual physical control of

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

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

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

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

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

47 A map or true copy of a map depicting the location and
48 boundaries of the area on or within 1,000 feet of any property used

1 for school purposes which is owned by or leased to any elementary
2 or secondary school or school board produced pursuant to section 1
3 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
4 paragraph (1) of this subsection.

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

13

14 3 Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to
15 read as follows:

16 2. a. (1) **【**Except as provided in paragraph (2) of this
17 subsection, in **】** In sentencing a first offender under R.S.39:4-50, the
18 court **【**may **】** shall order, in addition to any other penalty imposed
19 by that section, the installation of an ignition interlock device in the
20 motor vehicle principally operated by the offender during and
21 following the expiration of the period of license suspension
22 imposed under that section. In addition to installation during the
23 period of license suspension, the device shall remain installed not
24 less than three months or more than six months if the offender's
25 blood alcohol concentration is 0.08 percent or higher but less than
26 0.10 percent, and not less than six months or more than one year if
27 the offender's blood alcohol concentration is 0.10 percent or higher,
28 but less than 0.15 percent. In sentencing a first offender under
29 section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in
30 addition to any other penalty imposed by that section, the
31 installation of an ignition interlock device in the motor vehicle
32 principally operated by the offender during and following the
33 expiration of the period of license suspension imposed under that
34 section. The device shall remain installed not less than six months
35 or more than one year, commencing immediately upon the return of
36 the offender's driver's license after the required period of
37 suspension has been served.

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 **】** one year or more than **【**one
46 year **】** 18 months, commencing immediately upon the return of the

1 offender's driver's license after the required period of suspension
2 has been served.

3 b. In sentencing a second or subsequent offender under
4 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the
5 court shall order, in addition to any other penalty imposed by that
6 section, the installation of an ignition interlock device in **【the】** each
7 motor vehicle **【principally】** owned or operated, or both, by the
8 offender during and following the expiration of the period of license
9 suspension imposed under R.S.39:4-50 or section 2 of P.L.1981,
10 c.512 (C.39:4-50.4a). In addition to installation during the period of
11 license suspension, the device shall remain installed for not less
12 than one year or more than three years, commencing immediately
13 upon the return of the offender's driver's license after the required
14 period of suspension has been served.

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

18 d. As used in this act, "ignition interlock device" or "device"
19 means a blood alcohol equivalence measuring device which will
20 prevent a motor vehicle from starting if the operator's blood alcohol
21 content exceeds a predetermined level when the operator blows into
22 the device.

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

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

28

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

31 3. a. The court shall notify the **【Director】** Chief Administrator
32 of the **【Division of】** New Jersey Motor **【Vehicles】** Vehicle
33 Commission when a person has been ordered to install an interlock
34 device in a vehicle **【owned, leased or regularly operated by the**
35 **person】** pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17).
36 The **【division】** commission shall require that the device be installed
37 before reinstatement of the person's driver's license that has been
38 suspended pursuant to R.S.39:4-50.

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

45 c. Notwithstanding the provisions of section 2 of P.L.1999,
46 c.41 (C.39:4-50.17), an ignition interlock device shall not be
47 removed on the date of completion of the person's interlock

1 sentence unless the person provides to the New Jersey Motor
2 Vehicle Commission certification from the manufacturer that,
3 within the final one-third of that sentence:

4 (1) there were no attempts to start the motor vehicle with a
5 blood alcohol concentration of 0.08 percent or higher unless a re-
6 test conducted within five minutes of the initial test indicates a
7 blood alcohol concentration of less than 0.08 percent;

8 (2) there were no failures to take or pass any test with a blood
9 alcohol concentration of 0.08 percent or higher unless a re-test
10 conducted within five minutes of the initial test indicates a blood
11 alcohol concentration of less than 0.08 percent; and

12 (3) the person complied with all maintenance, repair, calibration,
13 monitoring, or inspection requirements related to the interlock
14 device.

15 d. For the purposes of subsection c. of this section, the data
16 from the readings of the interlock device shall be made available to
17 the sentenced person upon request.

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

19

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

22 4. a. **【A】** The driver's license of a person who fails to install
23 an interlock device as ordered by the court in a motor vehicle
24 **【owned, leased or regularly operated by him shall have his driver's**
25 **license】** pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17)
26 shall be suspended for **【one year】 18 months,** in addition to any
27 other suspension or revocation imposed under R.S.39:4-50, unless
28 the court determines a valid reason exists for the failure to comply.
29 A person in whose vehicle an interlock device is installed pursuant
30 to a court order who drives that vehicle after it has been started by
31 any means other than **【his own】 the person** blowing into the device
32 or who drives a vehicle that is not equipped with **【such】** a device
33 shall have **【his】 the person's** driver's license suspended for **【one**
34 year】 18 months, in addition to any other penalty applicable by law.

35 b. A person is a disorderly person who:

36 (1) blows into an interlock device or otherwise starts a motor
37 vehicle equipped with **【such a】 the** device for the purpose of
38 providing an operable motor vehicle to a person who has been
39 ordered by the court to install the device in the vehicle;

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

42 (3) knowingly rents, leases or lends a motor vehicle not
43 equipped with an interlock device to a person who has been ordered
44 by the court to install an interlock device in a vehicle **【he owns,**
45 **leases or regularly operates】** pursuant to section 2 of P.L.1999,
46 c.417 (C.39:4-50.17).

1 c. The provisions of subsection b. of this section shall not
2 apply if a motor vehicle required to be equipped with an ignition
3 interlock device is started by a person for the purpose of safety or
4 mechanical repair of the device or the vehicle, provided the person
5 subject to the court order does not operate the vehicle.
6 (cf: P.L.2009, c.201, s.3)

7
8 6. This act shall take effect on the first day of the fourth month
9 after enactment and shall apply to any offense occurring on or after
10 that date, and additionally the Chief Administrator of the Motor
11 Vehicle Commission may take any anticipatory administrative
12 action in advance of that date as shall be necessary to implement the
13 provisions of this act.

14
15
16 STATEMENT
17

18 This bill decreases the length of driver's license suspensions for
19 drunk driving and refusing to submit to a breathalyzer test, but
20 increases ignition interlock device requirements for these offenses.

21 Under current law, the period of driver's license suspension for
22 first time drunk driving offenders is based on the offender's blood
23 alcohol concentration (BAC). If the offender's BAC is 0.08 percent
24 or higher but less than 0.10 percent, the driver's license is
25 suspended for three months. If the offender's BAC is 0.10 percent
26 or higher, the driver's license is suspended for seven months to one
27 year. The driver's license suspension for refusing to submit to a
28 breathalyzer test currently is seven months to one year.

29 Under this bill, the three month driver's license suspension for
30 first time offenders with a BAC of between 0.08 percent and 0.10 is
31 reduced to 30 days. The seven month driver's license suspension
32 for first time offenders with a BAC of 0.10 percent or higher is
33 reduced to 45 days if the BAC is less than 0.15 percent and reduced
34 to 90 days if the BAC is 0.15 percent or more. The seven month
35 driver's license suspension for a first of offense of refusing to
36 submit to a breathalyzer test is reduced from seven months to one
37 year to 90 days under the bill.

38 Under current law, the installation of an ignition interlock device
39 (IID) is discretionary for first time drunk driving offenders whose
40 BAC is under 0.15 percent; if required by the court, the IID is to be
41 installed in the motor vehicle principally operated by the offender
42 for six months to one year following the license suspension. First
43 time offenders whose BAC is 0.15 percent or higher are required to
44 install an IID in the motor vehicle they principally operate during
45 the period of suspension, in addition to six months to one year
46 following the suspension. Installation of an IID also is mandatory
47 for a first offense of refusing to submit to a breathalyzer test; it is

S824 SCUTARI

1 required during the period of license suspension and six months to
2 one year after the suspension.

3 Under the bill, installation of an IID would be mandatory for first
4 time offenders and would be required during the license suspension,
5 as well as following the suspension. For first time offenders whose
6 BAC is 0.08 or higher and less than 0.10 percent, the required
7 period of installation is three to six months; for a BAC of 0.10
8 percent or higher but less than 0.15 percent, the installation period
9 is six months to one year; and for a BAC of 0.15 percent or higher
10 the installation period is one year to 18 months.

11 Under the bill, drivers with multiple convictions of drunk driving
12 or refusing the breathalyzer would be required to install the IID on
13 each motor vehicle they own or operate.

14 The bill further specifies that a driver may not remove an IID on
15 the date of completing the required period of installation unless the
16 driver provides to the New Jersey Motor Vehicle Commission
17 certification from the manufacturer that, within the final one-third
18 of that period certain conditions were met. First, the driver is
19 required to certify that there were no attempts to start the motor
20 vehicle with a BAC of 0.08 percent or higher unless a re-test
21 conducted within five minutes of the initial test indicates a BAC of
22 less than 0.08 percent. The driver also is to certify that there were
23 no failures to take or pass a test with a BAC of 0.08 percent or
24 higher unless a re-test conducted within five minutes of the initial
25 test indicates a BAC of less than 0.08 percent. Finally, the driver
26 has to certify that he or she complied with all maintenance, repair,
27 calibration, monitoring, or inspection requirements related to the
28 IID. The data from the readings of the IID are to be made available
29 to the sentenced person upon request.

30 Current law provides for a one year driver's license suspension
31 for failing to install a required IID. The bill increases the
32 suspension to 18 months.