

# ASSEMBLY, No. 1368

## STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblyman JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**SYNOPSIS**

Revises penalties for certain drunk driving offenses, including mandating installation of ignition interlock device, and creates restricted use driver's license.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 3/28/2014)**

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2

1 AN ACT revising penalties for certain drunk driving offenses,  
2 including use of a restricted use driver's license, amending  
3 various parts of the statutory law, and supplementing Title 39 of  
4 the Revised Statutes.

5

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

8

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

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

21 (1) For the first offense:

22 (i) if the person's blood alcohol concentration is 0.08% or  
23 higher but less than 0.10%, or the person operates a motor vehicle  
24 while under the influence of intoxicating liquor, or the person  
25 permits another person who is under the influence of intoxicating  
26 liquor to operate a motor vehicle owned by him or in his custody or  
27 control or permits another person with a blood alcohol  
28 concentration of 0.08% or higher but less than 0.10% to operate a  
29 motor vehicle, to a fine of not less than \$250 nor more than \$400  
30 and a period of detainment of not less than 12 hours nor more than  
31 48 hours spent during two consecutive days of not less than six  
32 hours each day and served as prescribed by the program  
33 requirements of the Intoxicated Driver Resource Centers established  
34 under subsection (f) of this section and, in the discretion of the  
35 court, a term of imprisonment of not more than 30 days **[and shall  
36 forthwith]**. In addition, the court shall order the person to forfeit  
37 his right to operate a motor vehicle over the highways of this State  
38 for a period of **[three months]** 10 days, during which period the  
39 person shall install an ignition interlock device in one motor vehicle  
40 owned, leased, or principally operated by the person, whichever the  
41 person most often operates, and thereafter maintain the installation  
42 for the court ordered period as set forth under the provisions of  
43 P.L.1999, c.417 (C.39:4-50.16 et al.), unless the person presents to  
44 the court at the time of sentencing satisfactory proof that a device is  
45 already installed and can therefore immediately begin the penalty

**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 period associated with the installation, or the person does not own  
2 or lease a motor vehicle and there is no vehicle the person  
3 principally operates, in which case the court shall instead order the  
4 person to forfeit his right to operate a motor vehicle over the  
5 highways of this State for a period of not less than three months or  
6 more than six months;

7 (ii) if the person's blood alcohol concentration is 0.10% or  
8 higher, or the person operates a motor vehicle while under the  
9 influence of narcotic, hallucinogenic or habit-producing drug, or the  
10 person permits another person who is under the influence of  
11 narcotic, hallucinogenic or habit-producing drug to operate a motor  
12 vehicle owned by him or in his custody or control, or permits  
13 another person with a blood alcohol concentration of 0.10% or more  
14 to operate a motor vehicle, to a fine of not less than \$300 nor more  
15 than \$500 and a period of detainment of not less than 12 hours nor  
16 more than 48 hours spent during two consecutive days of not less  
17 than six hours each day and served as prescribed by the program  
18 requirements of the Intoxicated Driver Resource Centers established  
19 under subsection (f) of this section and, in the discretion of the  
20 court, a term of imprisonment of not more than 30 days **【and shall**  
21 **forthwith】**. In addition, the court shall order the person to forfeit  
22 his right to operate a motor vehicle over the highways of this State  
23 for a period of **【not less than seven months nor more than one year;**

24 (iii) For a first offense, a person also shall be subject **【10 days,**  
25 during which period the person shall install an ignition interlock  
26 device **【to】** in one motor vehicle owned, leased, or principally  
27 operated by the person, whichever the person most often operates,  
28 and thereafter maintain the installation for the court ordered period  
29 as set forth under the provisions of P.L.1999, c.417 (C.39:4-50.16 et  
30 al.), unless the person presents to the court at the time of sentencing  
31 satisfactory proof that a device is already installed and can therefore  
32 immediately begin the penalty period associated with the  
33 installation, or the person does not own or lease a motor vehicle and  
34 there is no vehicle the person principally operates, in which case the  
35 court shall instead order the person to forfeit his right to operate a  
36 motor vehicle over the highways of this State for a period of not  
37 less than seven months or more than one year.

38 (2) For a second violation, a person shall be subject to a fine of  
39 not less than **【\$500.00】** \$500 nor more than **【\$1,000.00】** \$1,000,  
40 and shall be ordered by the court to perform community service for  
41 a period of 30 days, which shall be **【of such】** in the form and on  
42 **【such】** the terms as the court shall deem appropriate under the  
43 circumstances, and shall be sentenced to imprisonment for a term of  
44 not **【less than 48 consecutive hours, which shall not be suspended**  
45 **or served on probation, nor】** more than 90 days **【, and shall】**,  
46 except that the court may lower this term for each day served  
47 participating in a drug or alcohol inpatient rehabilitation program

1 approved by the Intoxicated Driver Resource Center. In addition,  
2 the court shall order the person to forfeit his right to operate a motor  
3 vehicle over the highways of this State for a period of ~~two years~~  
4 upon conviction, and, after the expiration of said period, he may  
5 make application to the Chief Administrator of the New Jersey  
6 Motor Vehicle Commission for a license to operate a motor vehicle,  
7 which application may be granted at the discretion of the chief  
8 administrator, consistent with subsection (b) of this section. For a  
9 second violation, a person also shall be required to ~~10 days,~~ during  
10 which period the person shall install an ignition interlock device in  
11 each motor vehicle owned, leased, or principally operated by the  
12 person and thereafter maintain their installation for the court  
13 ordered period as set forth under the provisions of P.L.1999, c.417  
14 (C.39:4-50.16 et al.), as well as obtain during this 10-day period a  
15 restricted use driver's license issued by the chief administrator  
16 pursuant to the provisions of P.L. , c. (C. ) (pending before  
17 the Legislature as this bill), which the person shall use to operate  
18 each affected motor vehicle for at least the first year of the ignition  
19 interlock device installation period but for not more than the  
20 maximum duration of that installation period, as ordered by the  
21 court. If the person presents to the court, at the time of sentencing,  
22 satisfactory proof that ignition interlock devices are already  
23 installed, the court shall still order the 10-day forfeiture of the  
24 person's right to operate a motor vehicle over the highways of this  
25 State, during which time the person shall obtain the restricted use  
26 driver's license.

27 If the person does not own or lease a motor vehicle and there is  
28 no vehicle the person principally operates, the court shall instead  
29 order the person to forfeit his right to operate a motor vehicle over  
30 the highways of this State for a period of not less than two years or  
31 more than four years.

32 (3) For a third or subsequent violation, a person shall be subject  
33 to a fine of ~~[\$1,000.00]~~ \$1,000 and shall be sentenced to  
34 imprisonment for a term of not less than 180 days in a county jail or  
35 workhouse, except that the court may lower ~~[such]~~ this term for  
36 each day ~~[, not exceeding 90 days,]~~ , not exceeding 90 days, served  
37 participating in a drug or alcohol inpatient rehabilitation program  
38 approved by the Intoxicated Driver Resource Center ~~[and shall~~  
39 ~~thereafter]~~. In addition, the court shall order the person to forfeit  
40 his right to operate a motor vehicle over the highways of this State  
41 for ~~10 years.~~ For a third or subsequent violation, a person also  
42 shall be required to ~~10 years and shall be required to~~ install an  
43 ignition interlock device in each motor vehicle owned, leased, or  
44 principally operated by the person and thereafter maintain their  
45 installation for the court ordered period as set forth under the  
46 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

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

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

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

31 If the driving privilege of any person is under revocation or  
32 suspension for a violation of any provision of this Title or Title 2C  
33 of the New Jersey Statutes at the time of any conviction for a  
34 violation of this section, the revocation or suspension period  
35 imposed and the requirement to install one or more ignition  
36 interlock devices pursuant to the provisions of P.L.1999, c.417  
37 (C.39:4-50.16 et al.) shall commence [as of] immediately, and each  
38 device shall remain installed after the date of termination of the  
39 existing revocation or suspension period for the specified  
40 installation period associated with a first, second, third, or  
41 subsequent offense set forth in section 2 of P.L.1999, c.417  
42 (C.39:4-50.17); but the requirement to obtain a restricted use  
43 driver's license issued by the chief administrator pursuant to the  
44 provisions of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill), if applicable, shall commence as of the date of  
46 termination of the existing revocation or suspension period.

1 In the case of any person who at the time of the imposition of  
2 sentence is less than 17 years of age, the forfeiture, suspension or  
3 revocation of the driving privilege imposed **【by the court】** and the  
4 requirement to install one or more ignition interlock devices  
5 pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.)  
6 **【under this section】** shall commence immediately, run through the  
7 offender's seventeenth birthday and continue from that date for the  
8 specified installation period **【set by the court pursuant to**  
9 **paragraphs (1) through (3) of this subsection】** associated with a  
10 first, second, third, or subsequent offense set forth in section 2 of  
11 P.L.1999, c.417 (C.39:4-50.17); but the requirement to obtain a  
12 restricted use driver's license issued by the chief administrator  
13 pursuant to the provisions of P.L. ,c. (C. ) (pending before  
14 the Legislature as this bill), if applicable, shall commence as of the  
15 date of termination of the existing forfeiture, suspension or  
16 revocation period. A court that imposes a term of imprisonment for  
17 a first or second offense under this section may sentence the person  
18 so convicted to the county jail, to the workhouse of the county  
19 wherein the offense was committed, to an inpatient rehabilitation  
20 program or to an Intoxicated Driver Resource Center or other  
21 facility approved by the chief of the Intoxicated Driving Program  
22 Unit in the Department of **【Health and Senior】** Human Services.  
23 For a third or subsequent offense a person shall not serve a term of  
24 imprisonment at an Intoxicated Driver Resource Center as provided  
25 in subsection (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 Alcoholism and Drug Abuse's Intoxicated Driving  
38 Program Unit, and of the Intoxicated Driver Resource Centers and a  
39 program of alcohol and drug education and highway safety, as  
40 prescribed by the chief administrator. The sentencing court shall  
41 inform the person convicted that failure to satisfy such requirements  
42 shall result in a mandatory two-day term of imprisonment in a  
43 county jail and a driver license revocation or suspension and  
44 continuation of revocation or suspension until such requirements  
45 are satisfied, unless stayed by court order in accordance with the  
46 Rules Governing the Courts of the State of New Jersey, or  
47 R.S.39:5-22. Upon sentencing, the court shall forward to the

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1 Division of Alcoholism and Drug Abuse's Intoxicated Driving  
2 Program Unit a copy of a person's conviction record. A fee of  
3 ~~【\$100.00】~~ \$100 shall be payable to the Alcohol Education,  
4 Rehabilitation and Enforcement Fund established pursuant to  
5 section 3 of P.L.1983, c.531 (C.26:2B-32) to support the  
6 Intoxicated Driving Program Unit.

7 (c) Upon conviction of a violation of this section, the court shall  
8 collect forthwith the New Jersey driver's license or licenses of the  
9 person so convicted and forward such license or licenses to the  
10 chief administrator. The court shall inform the person convicted  
11 that if he is convicted of personally operating a motor vehicle  
12 during the period of license suspension imposed pursuant to  
13 subsection (a) of this section, he shall, upon conviction, be subject  
14 to the penalties established in R.S.39:3-40. The person convicted  
15 shall be informed orally and in writing. A person shall be required  
16 to acknowledge receipt of that written notice in writing. Failure to  
17 receive a written notice or failure to acknowledge in writing the  
18 receipt of a written notice shall not be a defense to a subsequent  
19 charge of a violation of R.S.39:3-40. In the event that a person  
20 convicted under this section is the holder of any out-of-State  
21 driver's license, the court shall not collect the license but shall  
22 notify forthwith the chief administrator, who shall, in turn, notify  
23 appropriate officials in the licensing jurisdiction. The court shall,  
24 however, revoke the nonresident's driving privilege to operate a  
25 motor vehicle in this State, for a period that is the equivalent of the  
26 period of forfeiture of the right to operate a motor vehicle imposed  
27 upon a person who does not own or lease a motor vehicle and there  
28 is no vehicle the person principally operates, in accordance with  
29 this section. Upon conviction of a violation of this section, the  
30 court shall notify the person convicted, orally and in writing, of the  
31 penalties for a second, third, or subsequent violation of this section.  
32 A person shall be required to acknowledge receipt of that written  
33 notice in writing. Failure to receive a written notice or failure to  
34 acknowledge in writing the receipt of a written notice shall not be a  
35 defense to a subsequent charge of a violation of this section.

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

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

45 (f) The counties, in cooperation with the Division of  
46 Alcoholism and Drug Abuse and the commission, but subject to the  
47 approval of the Division of Alcoholism and Drug Abuse, shall

1 designate and establish on a county or regional basis Intoxicated  
2 Driver Resource Centers. These centers shall have the capability of  
3 serving as community treatment referral centers and as court  
4 monitors of a person's compliance with the ordered treatment,  
5 service alternative or community service. All centers established  
6 pursuant to this subsection shall be administered by a counselor  
7 certified by the Alcohol and Drug Counselor Certification Board of  
8 New Jersey or other professional with a minimum of five years'  
9 experience in the treatment of alcoholism. All centers shall be  
10 required to develop individualized treatment plans for all persons  
11 attending the centers; provided that the duration of any ordered  
12 treatment or referral shall not exceed one year. It shall be the  
13 center's responsibility to establish networks with the community  
14 alcohol and drug education, treatment and rehabilitation resources  
15 and to receive monthly reports from the referral agencies regarding  
16 a person's participation and compliance with the program. Nothing  
17 in this subsection shall bar these centers from developing their own  
18 education and treatment programs; provided that they are approved  
19 by the Division of Alcoholism and Drug Abuse.

20 Upon a person's failure to report to the initial screening or any  
21 subsequent ordered referral, the Intoxicated Driver Resource Center  
22 shall promptly notify the sentencing court of the person's failure to  
23 comply.

24 Required detention periods at the Intoxicated Driver Resource  
25 Centers shall be determined according to the individual treatment  
26 classification assigned by the Intoxicated Driving Program Unit.  
27 Upon attendance at an Intoxicated Driver Resource Center, a person  
28 shall be required to pay a per diem fee of ~~【\$75.00】~~ \$75 for the first  
29 offender program or a per diem fee of ~~【\$100.00】~~ \$100 for the  
30 second offender program, as appropriate. Any increases in the per  
31 diem fees after the first full year shall be determined pursuant to  
32 rules and regulations adopted by the Commissioner of ~~【Health and~~  
33 ~~Senior】~~ Human Services in consultation with the Governor's  
34 Council on Alcoholism and Drug Abuse pursuant to the  
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
36 seq.).

37 The centers shall conduct a program of alcohol and drug  
38 education and highway safety, as prescribed by the chief  
39 administrator.

40 The Commissioner of ~~【Health and Senior】~~ Human Services shall  
41 adopt rules and regulations pursuant to the "Administrative  
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), in order to  
43 effectuate the purposes of this subsection.

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

45 (1) on any school property used for school purposes which is  
46 owned by or leased to any elementary or secondary school or school  
47 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 the convicted person shall: for a first offense, be fined not less than  
8 \$500 or more than \$800, and be imprisoned for not more than 60  
9 days **【**and have his license to operate a motor vehicle suspended for  
10 a period of not less than one year or more than two years**】**; for a  
11 second offense, be fined not less than \$1,000 or more than \$2,000,  
12 perform community service for a period of 60 days, and be  
13 imprisoned for not less than 96 consecutive hours, which shall not  
14 be suspended or served on probation, nor more than 180 days,  
15 except that the court may lower such term for each day, not  
16 exceeding 90 days, served performing community service in such  
17 form and on such terms as the court shall deem appropriate under  
18 the circumstances **【**and have his license to operate a motor vehicle  
19 suspended for a period of four years**】**; and, for a third or subsequent  
20 offense, be fined \$2,000, imprisoned for 180 days in a county jail or  
21 workhouse, except that the court may lower such term for each day,  
22 not exceeding 90 days, served participating in a drug or alcohol  
23 inpatient rehabilitation program approved by the Intoxicated Driver  
24 Resource Center **【**, and have his license to operate a motor vehicle  
25 suspended for a period of 20 years; the period of license suspension  
26 shall commence upon the completion of any prison sentence  
27 imposed upon that person**】**, and have his license to operate a motor  
28 vehicle suspended for a period of 20 years; the period of license  
29 suspension shall commence upon the completion of any prison  
30 sentence imposed upon that person. In addition, the person shall  
31 forfeit his right to operate a motor vehicle over the highways of this  
32 State, and, if applicable, the person shall install one or more  
33 ignition interlock devices pursuant to the provisions of P.L.1999,  
34 c.417 (C.39:4-50.16 et al.) and be required to obtain a restricted use  
35 driver's license issued by the chief administrator pursuant to the  
36 provisions of P.L. , c. (C. ) (pending before the Legislature  
37 as this bill), or if the person does not own or lease a motor vehicle  
38 and there is no vehicle the person principally operates, the person  
39 shall instead forfeit his right to operate a motor vehicle over the  
40 highways of this State, for the specified period associated with a  
41 first, second, third, or subsequent offense as set forth in subsection  
42 (a) of this section.

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

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

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

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

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

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

41 If at any time before or during a visitation the facility's  
42 supervisory personnel and the probation officer determine that the  
43 visitation may be or is traumatic or otherwise inappropriate for that  
44 defendant, the visitation shall be terminated without prejudice to the  
45 defendant. The program may include a personal conference after  
46 the visitation, which may include the sentencing judge or the judge  
47 who coordinates the program for the court, the defendant,

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

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

18 (i) In addition to any other fine, fee, or other charge imposed  
19 pursuant to law, the court shall assess a person convicted of a  
20 violation of the provisions of this section a surcharge of \$100, of  
21 which amount \$50 shall be payable to the municipality in which the  
22 conviction was obtained and \$50 shall be payable to the Treasurer  
23 of the State of New Jersey for deposit into the General Fund.  
24 (cf: P.L.2009, c.201, s.1)  
25

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

28 2. a. **【Except as provided in subsection b. of this section, the】**  
29 The municipal court shall revoke the right to operate a motor  
30 vehicle of any operator who, after being arrested for a violation of  
31 R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall  
32 refuse to submit to a test provided for in section 2 of P.L.1966,  
33 c.142 (C.39:4-50.2) when requested to do so, 【for not less than  
34 seven months or more than one year unless the refusal was in  
35 connection with a second offense under this section, in which case  
36 the revocation period shall be for two years or unless the refusal  
37 was in connection with a third or subsequent offense under this  
38 section, in which case the revocation shall be for ten years.】 and,  
39 for a first or second offense, this revocation period shall be for a  
40 period of 10 days, during which period the person shall install one  
41 or more ignition interlock devices and thereafter maintain their  
42 installation for the court ordered period as set forth under the  
43 provisions of P.L.1999, c.417 (C.39:4-50.16 et al.), as well as, in  
44 the case of a second offense, obtain during this 10-day period a  
45 restricted use driver's license issued by the chief administrator  
46 pursuant to the provisions of P.L. , c. (C. ) (pending before  
47 the Legislature as this bill), unless the person does not own or lease

1 a motor vehicle and there is no vehicle the person principally  
2 operates, in which case the court shall instead order the person to  
3 forfeit his right to operate a motor vehicle over the highways of this  
4 State for the applicable period associated with a first or second  
5 offense under the provisions of R.S.39:4-50. For a third or  
6 subsequent offense, the person shall forfeit his right to operate a  
7 motor vehicle over the highways of this State for the period set  
8 forth in paragraph (3) of subsection (a) of R.S.39:4-50.

9 A conviction or administrative determination of a violation of a  
10 law of a substantially similar nature in another jurisdiction,  
11 regardless of whether that jurisdiction is a signatory to the Interstate  
12 Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et  
13 seq.), shall constitute a prior conviction under this section.

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

46 b. For a first offense, the fine imposed upon the convicted  
47 person shall be not less than \$600 or more than \$1,000 **【and the**

1 period of license suspension shall be not less than one year or more  
2 than two years]; for a second offense, a fine of not less than \$1,000  
3 or more than \$2,000 [and a license suspension for a period of four  
4 years]; and for a third or subsequent offense, a fine of \$2,000 [and  
5 a license suspension for a period of 20 years] and a license  
6 suspension for a period of 20 years, when a violation of this section  
7 occurs while:

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

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

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

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

23 It shall not be relevant to the imposition of sentence pursuant to  
24 paragraph (1) or (2) of this subsection that the defendant was  
25 unaware that the prohibited conduct took place while on or within  
26 1,000 feet of any school property or while driving through a school  
27 crossing. Nor shall it be relevant to the imposition of sentence that  
28 no juveniles were present on the school property or crossing zone at  
29 the time of the offense or that the school was not in session.  
30 (cf: P.L.2009, c.201, s.5)

31  
32 3. Section 2 of P.L.1999, c.417 (C.39:4-50.17) is amended to  
33 read as follows:

34 2. a. [(1) Except as provided in paragraph (2) of this  
35 subsection, in] (1) (a) Except as provided in subparagraph (b) of  
36 this paragraph:

37 in sentencing a first offender under R.S.39:4-50, the court [may]  
38 shall order, in addition to any other penalty imposed by that section,  
39 the installation of an ignition interlock device in one motor vehicle  
40 owned, leased, or principally operated by the offender [following  
41 the expiration of the period of license suspension imposed under  
42 that section. In], whichever the offender most often operates, to be  
43 accomplished during the 10-day period of license suspension  
44 imposed under that section, unless already installed by the offender  
45 with satisfactory proof of installation presented to the court; and

46 in sentencing a first offender under section 2 of P.L.1981, c.512  
47 (C.39:4-50.4a), the court shall order, in addition to any other

1 penalty imposed by that section, the installation of an ignition  
2 interlock device in **【the】** one motor vehicle owned, leased, or  
3 principally operated by the offender **【during and following the**  
4 expiration of the period of license suspension imposed under that  
5 section. The】, whichever the offender most often operates, to be  
6 accomplished during the 10-day period of license suspension  
7 imposed under that section, unless already installed by the offender  
8 with satisfactory proof of installation presented to the court.

9 If the offender's blood alcohol concentration is 0.08% or higher  
10 but less than 0.10%, the device shall remain installed for not less  
11 than three months or more than six months, commencing  
12 immediately upon the restoration of the offender's driver's license  
13 after the 10-day period of license suspension or as indicated on the  
14 court order if no suspension occurs due to prior installation of the  
15 device with satisfactory proof of installation presented to the court,  
16 and this designated installation period shall be subject, as indicated  
17 on the court order, to extension as set forth in subsection c. of this  
18 section if the offender attempts to operate the affected motor  
19 vehicle with a blood alcohol concentration of 0.08% or higher  
20 during the one-third period of the designated installation period  
21 immediately preceding the date of removal or the offender fails to  
22 present the affected motor vehicle for device servicing during the  
23 designated installation period as required by regulation of the chief  
24 administrator. If the offender's blood alcohol concentration is  
25 0.10% or higher, or the offender is sentenced under section 2 of  
26 P.L.1981, c.512 (C.39:4-50.4a), the device shall remain installed for  
27 not less than **【six】** seven months or more than one year **【,**  
28 commencing immediately upon the return of the offender's driver's  
29 license after the required period of suspension has been served】 ,  
30 commencing immediately upon the restoration of the offender's  
31 driver's license after the 10-day period of license suspension or as  
32 indicated on the court order if no suspension occurs due to prior  
33 installation of the device with satisfactory proof of installation  
34 presented to the court, and this designated installation period shall  
35 be subject, as indicated on the court order, to extension as set forth  
36 in subsection c. of this section if the offender attempts to operate  
37 the affected motor vehicle with a blood alcohol concentration of  
38 0.08% or higher during the one-third period of the designated  
39 installation period immediately preceding the date of removal or the  
40 offender fails to present the affected motor vehicle for device  
41 servicing during the designated installation period as required by  
42 regulation of the chief administrator.

43 (b) If the offender does not own or lease a motor vehicle or  
44 there is no vehicle the offender principally operates, the offender  
45 shall forfeit the right to operate a motor vehicle for the applicable  
46 period associated with a first offense set forth under the provisions  
47 of R.S.39:4-50.

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

11       (2) (Deleted by amendment, P.L. , c. ) (pending before the  
12 Legislature as this bill)

13       b. (1) **[In] (a) Except as provided in subparagraph (b) of this**  
14 paragraph, in sentencing a second **[or subsequent]** offender under  
15 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
16 court shall order, in addition to any other penalty imposed by **[that]**  
17 the applicable section, the installation of an ignition interlock  
18 device in **[the]** each motor vehicle owned, leased, or principally  
19 operated by the offender **[during and following the expiration of the**  
20 period of license suspension imposed under R.S.39:4-50 or section  
21 2 of P.L.1981, c.512 (C.39:4-50.4a). In addition to installation  
22 during the period of license suspension, the device shall remain  
23 installed for not less than one year or more than three years,  
24 commencing immediately upon the return of the offender's driver's  
25 license after the required period of suspension has been served.], to  
26 be accomplished during the 10-day period of license suspension  
27 imposed under the applicable section, unless already installed by  
28 the offender with satisfactory proof of installation presented to the  
29 court. The device shall remain installed for not less than two years  
30 or more than four years, and this designated installation period shall  
31 be subject, as indicated on the court order, to extension as set forth  
32 in subsection c. of this section if the offender attempts to operate  
33 any affected motor vehicle with a blood alcohol concentration of  
34 0.08% or higher during the one-third period of the designated  
35 installation period immediately preceding the date of removal or the  
36 offender fails to present each affected motor vehicle for device  
37 servicing during the designated installation period as required by  
38 regulation of the chief administrator.

39       (b) If the offender does not own or lease a motor vehicle or  
40 there is no motor vehicle the offender principally operates, the  
41 offender shall forfeit the right to operate a motor vehicle for the  
42 applicable period associated with a second offense set forth under  
43 the provisions of R.S.39:4-50.

44       (2) (a) Except as provided in subparagraph (b) of this paragraph,  
45 in sentencing a third or subsequent offender under R.S.39:4-50 or  
46 section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in  
47 addition to any other penalty imposed by the applicable section, the

1 installation of an ignition interlock device in each motor vehicle  
2 owned, leased or principally operated by the offender during and  
3 following the expiration of the period of license suspension  
4 imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
5 50.4a). In addition to installation during the period of license  
6 suspension, the device shall remain installed for not less than one  
7 year or more than three years, commencing immediately upon the  
8 return of the offender's driver's license after the required period of  
9 suspension has been served.

10 (b) If the offender does not own or lease a motor vehicle or  
11 there is no motor vehicle that the offender principally operates, the  
12 offender shall forfeit the right to operate a motor vehicle for the  
13 applicable period associated with a third or subsequent offense set  
14 forth under the provisions of R.S.39:4-50.

15 c. (1) The court shall require that, for the duration of its order,  
16 an offender shall drive no vehicle other than one in which an  
17 ignition interlock device has been installed pursuant to the order.

18 (2) For a first or second offender, the court shall require that, as  
19 a condition to the removal of the one or more ignition interlock  
20 devices installed pursuant to this section, the offender shall not  
21 attempt to operate, with a blood alcohol concentration of 0.08% or  
22 higher, any motor vehicle in which an ignition interlock device has  
23 been installed, causing the device to lock the ignition on that  
24 vehicle, during the one-third period of the designated installation  
25 period immediately preceding the date of removal, or fail to present  
26 each motor vehicle for device servicing during the designated  
27 installation period as required by regulation of the chief  
28 administrator. If either event occurs, then the designated  
29 installation period shall be extended by an additional one-third  
30 period commencing immediately upon the termination of the  
31 originally designated installation period, without need of further  
32 court order, following notification to the court by the chief  
33 administrator of the event, which notification shall be supported by  
34 a certification from the ignition interlock device manufacturer,  
35 installer, or other party set forth in regulation responsible for the  
36 servicing or monitoring of the device. The extension of an  
37 installation period by an additional one-third period shall occur for  
38 each event properly noticed by the chief administrator.

39 d. As used in this act, "ignition interlock device" or "device"  
40 means a blood alcohol equivalence measuring device which will  
41 prevent a motor vehicle from starting if the operator's blood alcohol  
42 **[content]** concentration exceeds a predetermined level when the  
43 operator blows into the device.

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



1 (C.39:4-50.4a).  
2 (cf: P.L.2009, c.201, s.2)

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

6 3. The court shall notify the **【Director of the Division of Motor**  
7 **Vehicles】** Chief Administrator of the Motor Vehicle Commission  
8 when a person has been ordered, due to a violation of R.S.39:4-50  
9 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), to install an ignition  
10 interlock device in 【a vehicle】 the one or more motor vehicles  
11 owned, leased or 【regularly】 principally operated by the person as  
12 set forth under the provisions of P.L.1999, c.417 (C.39:4-50.16 et  
13 al.). 【The division shall require that the device be installed before  
14 reinstatement of the person's driver's license that has been  
15 suspended pursuant to R.S.39:4-50.】 The commission shall require  
16 that the one or more devices be installed before issuance of a  
17 restricted use driver's license or reinstatement of a driver's license  
18 for that person, whose driver's license has been suspended in  
19 accordance with the provisions of R.S.39:4-50 or section 2 of  
20 P.L.1981, c.512 (C.39:4-50.4a). The 【division】 commission shall  
21 imprint a notation on the restricted use driver's license or reinstated  
22 driver's license stating that the person shall not operate a motor  
23 vehicle unless it is equipped with an ignition interlock device and  
24 shall enter this requirement in the person's driving record.

25 The division shall require that the device be installed before  
26 reinstatement of the person's driver's license that has been  
27 suspended pursuant to R.S.39:4-50 or section 2 of P.L.1981, c.512  
28 (C.39:4-50.4a) for a third or subsequent violation.  
29 (cf: P.L.1999, c.417, s.3)

30  
31 5. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to  
32 read as follows:

33 4. a. A person who fails to install an ignition interlock device  
34 as ordered by the court pursuant to the provisions of P.L.1999,  
35 c.417 (C.39:4-50.16 et al.) in 【a】 the one or more motor 【vehicle】  
36 vehicles owned, leased or 【regularly】 principally operated by him  
37 shall 【have his】 be guilty of a disorderly persons offense. The  
38 court also shall suspend the person's driver's license 【suspended】  
39 for 【one year, in addition to any other suspension or revocation】 the  
40 period of time imposed under R.S.39:4-50 associated with a person  
41 who does not own or lease a motor vehicle and there is no vehicle  
42 that person would principally operate, except that the applicable  
43 period applied by the court shall be the period for a second offense  
44 if the failure to install a device was committed by a first offender  
45 under R.S.39-4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a),  
46 and shall be the period for a third offense if the failure to install a

1 device was committed by a second offender under R.S.39-4-50 or  
2 section 2 of P.L.1981, c.512 (C.39:4-50.4a), unless the court  
3 determines a valid reason exists for the failure to comply. A person  
4 in whose vehicle an ignition interlock device is installed pursuant to  
5 a court order who drives that vehicle after it has been started by any  
6 means other than his own blowing into the device or who drives a  
7 vehicle that is not equipped with such a device shall be guilty of a  
8 disorderly persons offense and shall have his driver's license  
9 suspended for **[one year]** the same period of time described in this  
10 subsection as for a person who fails to install an ignition interlock  
11 device, in addition to any other penalty applicable by law.

12 b. A person is a disorderly person who:

13 (1) blows into an ignition interlock device or otherwise starts a  
14 motor vehicle equipped with such a device for the purpose of  
15 providing an operable motor vehicle to a person who has been  
16 ordered by the court to install the device in the vehicle;

17 (2) tampers or in any way circumvents the operation of an  
18 ignition interlock device; or

19 (3) knowingly rents, leases or lends a motor vehicle not  
20 equipped with an ignition interlock device to a person who has been  
21 ordered by the court to install an ignition interlock device in a  
22 vehicle he owns, leases or regularly operates.

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

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

29

30 6. (New section) a. (1) Upon suspending the driver's license of  
31 any person convicted of a violation of R.S.39:4-50 or section 2 of  
32 P.L.1981, c.512 (C.39:4-50.4a), the court shall determine whether  
33 that person is required, due to the violation being a second offense,  
34 to apply for a restricted use driver's license pursuant to the  
35 provisions of this section and section 7 of P.L. , c. (C. ). If  
36 the person is so required, the court shall explain orally and in  
37 writing the period, set forth in paragraph (2) of this subsection, for  
38 which the person shall have the restricted use driver's license and  
39 the conditions under which the license shall be obtained, including  
40 the requirement that the person install, and maintain installation of,  
41 an ignition interlock device in the one or more motor vehicles  
42 owned, leased, or principally operated by the person for the court  
43 ordered period as set forth under the provisions of P.L.1999, c.417  
44 (C.39:4-50.16 et al.), as well as the limited driving conditions for  
45 which the person may operate any affected vehicle. The person  
46 shall make application to the chief administrator for the restricted  
47 use driver's license.

1 (2) The court order shall require that the restricted use driver's  
2 license be used for at least the first year of the ignition interlock  
3 device installation period ordered by the court pursuant to section 2  
4 of P.L.1999, c.417 (C.39:4-50.17) but for not more than the  
5 maximum duration of that installation period, subject to extension if  
6 the person attempts to operate any motor vehicle, in which the  
7 ignition interlock device is installed, with a blood alcohol  
8 concentration of 0.08% or higher, causing the device to lock the  
9 ignition on that vehicle, during the one-third period of the  
10 designated installation period immediately preceding the date of  
11 device removal, or the person fails to present each affected motor  
12 vehicle for device servicing during the designated installation  
13 period as required by regulation of the chief administrator. If either  
14 event occurs, then the designated restricted use driver's license  
15 period shall be extended by an additional one-third period  
16 commencing immediately upon the termination of the originally  
17 designated period, without need of further court order, following  
18 notification to the court by the chief administrator, which  
19 notification shall be supported by a certification from the ignition  
20 interlock device manufacturer, installer, or other party set forth in  
21 regulation responsible for the servicing or monitoring of the device.  
22 The extension of a designated restricted use driver's license period  
23 shall occur for each event properly noticed by the chief  
24 administrator.

25 b. A person who applies for a restricted use driver's license  
26 shall certify in the application:

27 (1) the one or more motor vehicles in which an ignition  
28 interlock device is installed, as indicated in the court order issued  
29 pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17), and include  
30 a copy of the court order with the application;

31 (2) the person's place of employment and the hours during  
32 which the person is employed, and the manner in which the person  
33 is required to operate a motor vehicle as a condition of employment,  
34 if applicable;

35 (3) the hours during which, and the locations between which, it  
36 is necessary for the person to personally operate a motor vehicle;  
37 and

38 (4) the person's understanding of the limited driving conditions,  
39 set forth in the court order supplied with the application, for which  
40 the person is permitted to operate any motor vehicle in which an  
41 ignition interlock device is installed.

42 c. The chief administrator shall grant the restricted use driver's  
43 license only on the condition that the applicant provides current  
44 proof of possession of motor vehicle liability insurance in the  
45 amount required by law and for the duration of the requested  
46 restricted use driver's license, which shall be for at least the first  
47 year of the ignition interlock device installation period but for not  
48 more than the maximum duration of that installation period, subject

1 to extension as set forth in paragraph (2) of subsection a. of this  
2 section, as indicated in the court order.

3 d. Upon receiving the completed application, the chief  
4 administrator shall determine whether the person has satisfied all of  
5 the necessary criteria to be issued a restricted use driver's license.

6  
7 7. (New section) a. The restricted use driver's license shall be  
8 in a form prescribed by the chief administrator and shall be issued  
9 in accordance with procedures established by the chief  
10 administrator. The license shall be of a color selected by the chief  
11 administrator, which readily distinguishes it from other driver's  
12 licenses issued by this State. The chief administrator may impose a  
13 fee of not more than \$25 for the issuance of a restricted use driver's  
14 license.

15 b. A restricted use driver's license issued under this section  
16 shall authorize the licensee to operate the one or more motor  
17 vehicles indicated in the license application, as required by section  
18 6 of P.L. , c. (C. ) (pending before the Legislature as this  
19 bill), that have an ignition interlock device installed pursuant to  
20 P.L.1999, c.417 (C.39:4-50.16 et al.), during certain hours and  
21 between certain points solely for the purpose of traveling to and  
22 from the licensee's place of employment or for pursuing  
23 employment, and as otherwise permitted as set forth in the court  
24 order supplied with the application. Whenever the licensee operates  
25 a designated motor vehicle using the restricted use driver's license,  
26 the licensee shall maintain a copy of the court order setting forth the  
27 conditions for which the licensee is permitted to operate the motor  
28 vehicle, for presentation upon request by a law enforcement officer  
29 or other authority.

30 c. (1) The chief administrator shall issue a restricted use  
31 driver's placard, the size, material, and form of which determined  
32 by the chief administrator, to each approved licensee. The placard  
33 shall be the same color as the restricted use driver's license.

34 (2) The placard shall be prominently displayed in the rear  
35 window, or other location determined by the chief administrator, of  
36 any motor vehicle equipped with an ignition interlock device  
37 pursuant to P.L.1999, c.417 (C.39:4-50.16 et al.) that corresponds to  
38 a motor vehicle indicated in the restricted use driver's license  
39 application as required by section 6 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill), and for which that  
41 license is issued.

42  
43 8. (New section) a. A person shall be guilty of a disorderly  
44 persons offense for:

45 (1) deliberately falsifying an application for a restricted use  
46 driver's license presented to the chief administrator pursuant to  
47 section 6 of P.L. , c. (C. ) (pending before the Legislature as

1 this bill), including alteration of the court order supplied with the  
2 application;

3 (2) operating a motor vehicle corresponding to the restricted use  
4 driver's license issued pursuant to section 7 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill) in a manner that is  
6 inconsistent with the court order setting forth the conditions under  
7 which the license was obtained and to be used;

8 (3) failing, as required by section 7 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill), to maintain, while  
10 operating that motor vehicle, a copy of the court order setting forth  
11 the conditions for which the person is permitted to operate the  
12 motor vehicle, or failing to keep prominently displayed the  
13 restricted use driver's placard on that motor vehicle; or

14 (4) operating any motor vehicle other than a motor vehicle for  
15 which the restricted use driver's license is issued.

16 b. In addition to any other applicable penalty by law  
17 concerning a violation set forth in subsection a. of this section, the  
18 court shall immediately suspend the person's restricted use driver's  
19 license and order the forfeiture of the person's right to operate a  
20 motor vehicle over the highways of this State for a period that is the  
21 equivalent of the period of forfeiture imposed upon a person under  
22 R.S.39:4-50 who does not own or lease a motor vehicle and there is  
23 no vehicle the person principally operates, except that the  
24 applicable period applied by the court shall be the period for a third  
25 or subsequent offense imposed under R.S.39:4-50.

26

27 9. This act shall take effect on the first day of the fourth month  
28 after enactment and shall apply to any offense occurring on or after  
29 that date, and additionally the Chief Administrator of the Motor  
30 Vehicle Commission may take any anticipatory administrative  
31 action in advance of that date as shall be necessary to implement the  
32 provisions of this act.

33  
34  
35 STATEMENT

36  
37 This bill revises penalties for various drunk driving offenses.  
38 These revisions include mandating the installation of an ignition  
39 interlock device in the one or more motor vehicles owned, leased,  
40 or principally operated by the offender and the operation of such  
41 vehicles, for some offenders, under a restricted use driver's license,  
42 or alternatively, mandating the offender's forfeiture of the right to  
43 operate a motor vehicle if the offender instead does not own or  
44 lease a motor vehicle and there is no vehicle the offender  
45 principally operates.

46 The bill provides that whenever a person commits the offense of  
47 driving under the influence of alcohol or drugs (R.S.39:50-4) or

1 refusing to submit to a breath test (section 2 of P.L.1966, c.142  
2 (C.39:4-50.2)), the person would be required to install an ignition  
3 interlock device: in one motor vehicle owned, leased, or principally  
4 operated by the person, whichever vehicle the person most often  
5 operates, if a first offender; and in each motor vehicle owned,  
6 leased, or principally operated, if a second or subsequent offender.

7 For a first or second offense, a court would initially order the  
8 suspension of the person's driver's license for a period of 10 days,  
9 during which period the person would have to install the  
10 appropriate number of devices, unless the person presented to the  
11 court at the time of sentencing satisfactory proof that the one or  
12 more devices are already installed; and additionally, for a second  
13 offense, the person during this same 10-day period would be  
14 required to obtain a restricted use driver's license with various court  
15 ordered driving restrictions, issued by the Chief Administrator of  
16 the Motor Vehicle Commission in order to operate each affected  
17 motor vehicle.

18 For a third offense, the court would continue to follow existing  
19 law and suspend the person's driver's license for a period of 10  
20 years along with ordering the installation of interlock devices.

21 If the person did not own or lease a motor vehicle and there was  
22 no vehicle the person principally operated, the court, instead of  
23 ordering any interlock device installation, would order the person to  
24 forfeit his right to operate a motor vehicle over the highways of this  
25 State.

26 For a first offender whose blood alcohol concentration is 0.08%  
27 or higher but less than 0.10%, the device would remain installed for  
28 a period of not less than three months or more than six months,  
29 commencing immediately upon the restoration of the offender's  
30 driver's license after the 10-day period of license suspension or as  
31 indicated on the court order if no suspension occurs due to the prior  
32 installation of the device (with satisfactory proof of installation to  
33 the court). This designated installation period would be subject to  
34 possible extension for an additional period equal to one-third of the  
35 originally designated period, for attempting to operate the affected  
36 motor vehicle with a blood alcohol concentration of 0.08% or  
37 higher during the last one-third of the installation period, or for  
38 failing to present the affected vehicle for device servicing at any  
39 time during the installation period. This extension would occur  
40 without need of further court order, following notification of the  
41 event to the court by the chief administrator, which notification  
42 would be supported by a certification from the ignition interlock  
43 device manufacturer, installer, or other party set forth in regulation  
44 responsible for the servicing or monitoring of the device.

45 For a first offender whose blood alcohol concentration is 0.10%  
46 or higher, or for driving under the influence of drugs, or for  
47 refusing to submit to a breath test, the ignition interlock device

1 would remain installed for a period of not less than seven months or  
2 more than one year, again commencing immediately upon the  
3 restoration of the offender's driver's license after the 10-day period  
4 of license suspension or as indicated on the court order if no  
5 suspension occurs due to the prior installation of the device (with  
6 satisfactory proof of installation to the court). As before, the  
7 designated installation period would be subject to possible  
8 extension in the same manner as stated above.

9 For any first offender who does not own or lease a motor vehicle,  
10 or if there is no motor vehicle the offender principally operates, the  
11 court would instead order forfeiture of the offender's right to  
12 operate a motor vehicle, with the period of forfeiture being the same  
13 as the period for which the ignition interlock device would have  
14 been installed (not less than three months or more than six months;  
15 or not less than seven months or more than one year, if a higher  
16 blood alcohol concentration, under the influence of drugs, or  
17 refusing to submit to a breath test).

18 For a second offender, regardless of the level of blood alcohol  
19 concentration, or for driving under the influence of drugs, or for  
20 refusing to submit to a breath test, the one or more devices would  
21 remain installed for a period of not less than two years or more than  
22 four years, subject to possible extension in the same manner as  
23 stated above, and the offender would also be required to obtain a  
24 restricted use driver's license, which the offender would use to  
25 operate each affected motor vehicle for at least the first year of the  
26 ignition interlock installation period but for not more than the  
27 maximum duration of that period, as ordered by the court. Similar  
28 to the possible extension of the designated ignition interlock  
29 installation period, the period for operating with a restricted use  
30 driver's license would be subject to extension, via notice by the  
31 chief administrator to the court, for an additional period equal to  
32 one-third of the originally designated restricted use driver's license  
33 period, for attempting to operate the affected motor vehicle with a  
34 blood alcohol concentration of 0.08% or higher during the last one-  
35 third of the device installation period, or for failing to present each  
36 affected vehicle for device servicing at any time during the  
37 installation period.

38 During the restricted use licensing period, such license would  
39 limit the offender to driving for the purpose of traveling to and from  
40 the offender's place of employment or for pursuing employment,  
41 and as otherwise permitted as set forth in the court order. For a  
42 second offender who does not own or lease a motor vehicle, or if  
43 there is no motor vehicle the offender principally operates, the  
44 period of forfeiture of the right to operate a motor vehicle on the  
45 second offense would be the same as the period for which the  
46 ignition interlock device would have been installed (not less than  
47 two years or more than four years).

1 Third and subsequent offenders would remain subject to the  
2 penalty provisions of current law: a fine of \$1,000; imprisonment  
3 for a term of not less than 180 days in a county jail or workhouse,  
4 except that the court may lower such term for each day, not  
5 exceeding 90 days, served participating in a drug or alcohol  
6 inpatient rehabilitation program approved by the Intoxicated Driver  
7 Resource Center; and loss of the offender's driver's license for 10  
8 years. During this 10-year suspension period, the person also  
9 would be required to install an ignition interlock device on each  
10 motor vehicle. The device would also be required to remain  
11 installed for not less than one year or more than three years,  
12 commencing immediately upon the return of the offender's driver's  
13 license after the suspension period has been served.

14 Under the bill, if the driving privilege of a person was already  
15 under revocation or suspension for a violation of Title 2C, New  
16 Jersey Code of Criminal Justice, or Title 39, Motor Vehicles and  
17 Traffic Regulations, at the time of a conviction for a drunk driving  
18 offense, the above described 10-day period of license suspension, if  
19 applicable, and the requirement to install the one or more ignition  
20 interlock devices would commence immediately, and the devices  
21 would thereafter remain installed after the date of termination of  
22 that existing revocation or suspension for the specified installation  
23 period associated with a first, second, third, or subsequent offense;  
24 but the requirement to obtain a restricted use driver's license, if  
25 applicable, would commence as of the date of termination of the  
26 existing revocation or suspension period. In the case of any person  
27 who at the time of imposition of a sentence is less than 17 years of  
28 age, the 10-day period of license suspension, if applicable, and  
29 requirement to install the device would likewise commence  
30 immediately, run through the offender's 17th birthday, and continue  
31 from that date for the specified installation period associated with a  
32 first, second, third, or subsequent offense; but the requirement to  
33 obtain a restricted use driver's license, if applicable, would  
34 commence as of the date of termination of the existing forfeiture,  
35 suspension, or revocation period.

36 With respect to all cases for which a person has been ordered to  
37 install one or more ignition interlock devices, the court would  
38 notify the Chief Administrator of the Motor Vehicle Commission.  
39 The commission would thereafter require that the one or more  
40 devices be installed before issuance of a restricted use driver's  
41 license or the reinstatement of the person's driver's license. The  
42 commission would imprint a notation on the restricted use driver's  
43 license or reinstated driver's license stating that the person could  
44 not operate a motor vehicle unless it is equipped with an ignition  
45 interlock device, and would enter this requirement in the person's  
46 driving record.



1 In order to obtain a restricted use driver's license, a person  
2 would have to make an application to the chief administrator. The  
3 person would have to certify in the application: (1) the one or more  
4 vehicles in which the ignition interlock device is installed, as  
5 indicated in the court order, and include a copy of the court order  
6 with the application; (2) the person's place of employment and the  
7 hours during which the person is employed, and the manner in  
8 which the person is required to operate a motor vehicle as a  
9 condition of employment, if applicable; (3) the hours during which,  
10 and the locations between which, it is necessary for the person to  
11 personally operate a motor vehicle; and (4) the person's  
12 understanding of the limited driving conditions, set forth in the  
13 court order supplied with the application, for which the person is  
14 permitted to operate any motor vehicle in which an ignition  
15 interlock device is installed. The chief administrator would issue  
16 the restricted use driver's license upon satisfying all of the above  
17 criteria.

18 The restricted use driver's license would be in a form prescribed  
19 by the chief administrator and be issued in accordance with  
20 procedures established by the chief administrator. The license  
21 would be of a color selected by the chief administrator, which  
22 readily distinguishes it from other driver's licenses issued by this  
23 State. The chief administrator could impose a fee of not more than  
24 \$25 for the issuance of a restricted use driver's license. Along with  
25 the restricted use driver's license, the chief administrator would  
26 issue a restricted use driver's placard, the size, material, and form  
27 of which determined by the chief administrator, to each approved  
28 licensee. The licensee would be required to prominently display the  
29 placard in the rear window, or other location determined by the  
30 chief administrator, of any motor vehicle equipped with an ignition  
31 interlock device for which the restricted use driver's license is  
32 issued.

33 A person who fails to install an ignition interlock device as  
34 ordered by a court, or who drives a device-equipped vehicle after  
35 being started by means other than the person blowing into the  
36 device, or who drives an unequipped vehicle, would be guilty of a  
37 disorderly persons offense. A disorderly persons offense is  
38 ordinarily punishable by a term of imprisonment of up to six  
39 months, a fine of up to \$1,000, or both. Furthermore, the court  
40 would suspend the person's driver's license for the period of time  
41 associated with a person who does not own or lease a motor vehicle  
42 and there is no vehicle that person principally operates, except that  
43 the applicable period applied by the court would be the period for a  
44 second offense (not less than two years or more than four years) if  
45 the underlying act was committed by a first offender, and would be  
46 the period for a third or subsequent offense (10 years) if the  
47 underlying act was committed by a second offender.

1        Additionally, with respect to the restricted use driver's license, a  
2 person would be guilty of a disorderly persons offense for: (1)  
3 deliberately falsifying an application for a restricted use driver's  
4 license, including alteration of the court order supplied with the  
5 application; (2) operating a motor vehicle corresponding to the  
6 restricted use driver's license in a manner that is inconsistent with  
7 the court order setting forth the conditions under which the license  
8 was obtained and to be used; (3) failing to maintain, while operating  
9 that motor vehicle, a copy of the court order, for presentation upon  
10 request by a law enforcement officer or other authority, setting forth  
11 the conditions for which the person is permitted to operate the  
12 motor vehicle, or failing to keep prominently displayed the  
13 restricted use driver's placard on the motor vehicle for which the  
14 restricted use driver's license is issued; or (4) operating any motor  
15 vehicle other than the motor vehicle for which the restricted use  
16 driver's license is issued. In addition to other available penalties  
17 under the law, the court would immediately suspend the person's  
18 restricted use driver's license and order the forfeiture of the  
19 person's right to operate a motor vehicle over the highways of this  
20 State for a period that is the equivalent of the period of forfeiture  
21 imposed upon a person for driving under the influence (R.S.39:4-  
22 50) who does not own or lease a motor vehicle and there is no  
23 vehicle the person principally operates, except that the applicable  
24 period applied by the court would be the period for a third or  
25 subsequent offense (10 years).

26        The bill also addresses periods of incarceration and community  
27 service requirements for persons who commit multiple offenses  
28 generally (but not those more serious offenses that occur on school  
29 property or involve driving through a school crossing (detailed in  
30 subsection (g) of R.S.39:4-50)). Under the bill, a person with a  
31 second drunk driving related offense would be sentenced to  
32 imprisonment for a term of not more than 90 days, except that the  
33 court could lower this term, with no cap on the potential number of  
34 days reduced, for each day served participating in a drug or alcohol  
35 inpatient rehabilitation program approved by the Intoxicated Driver  
36 Resource Center. Similarly, while a person with a third or  
37 subsequent drunk driving offense would be sentenced to  
38 imprisonment, the court could also lower this term for each day  
39 served participating in an approved drug or alcohol inpatient  
40 rehabilitation program. However, there would be a cap of 90 days  
41 on the number of days potentially reduced from the term of  
42 imprisonment.