

[Third Reprint]

ASSEMBLY, No. 3073

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2008

Sponsored by:

Assemblyman ERIC MUNOZ

District 21 (Essex, Morris, Somerset and Union)

Assemblywoman NANCY F. MUNOZ

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District 1 (Cape May, Atlantic and Cumberland)

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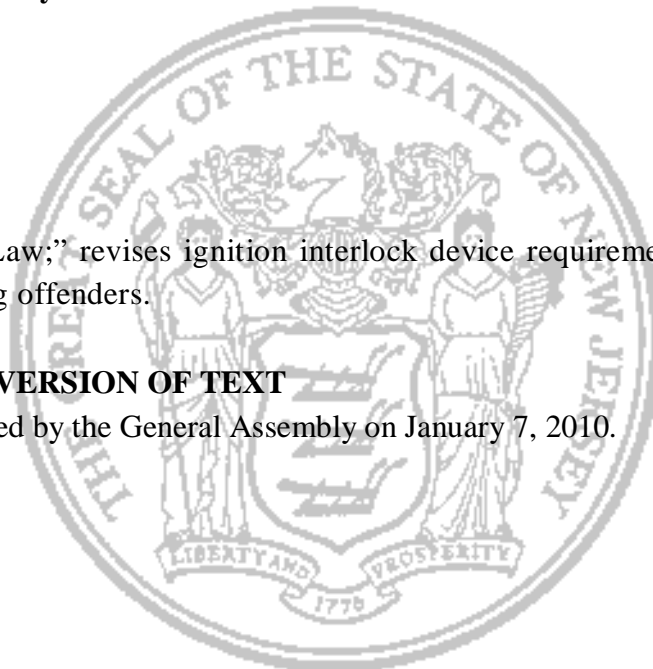
Assemblywoman Angelini, Assemblymen Rible, Biondi, Assemblywomen Greenstein, Wagner, Karrow, Assemblymen Van Pelt, Rumpf, Holzapfel, Wolfe, Assemblywomen Evans and Vainieri Huttle

SYNOPSIS

“Ricci’s Law;” revises ignition interlock device requirements for certain drunk driving offenders.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 11/24/2009)

1 AN ACT concerning ignition interlock devices, designated as Ricci's
2 Law, and amending R.S.39:4-50, ³[P.L.1999, c.417, and]³
3 P.L.1995, c.286 ³, P.L.1981, c.512, and amending and
4 supplementing P.L.1999, c.417³ .
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 forfeit his right to operate a motor vehicle over the
37 highways of this State for a period of three months;

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALP committee amendments adopted October 23, 2008.

²Assembly AJU committee amendments adopted June 8, 2009.

³Assembly floor amendments adopted January 7, 2010.

1 another person with a blood alcohol concentration of 0.10% or more
2 to operate a motor vehicle, to a fine of not less than \$300 nor more
3 than \$500 and a period of detainment of not less than 12 hours nor
4 more than 48 hours spent during two consecutive days of not less
5 than six hours each day and served as prescribed by the program
6 requirements of the Intoxicated Driver Resource Centers established
7 under subsection (f) of this section and, in the discretion of the
8 court, a term of imprisonment of not more than 30 days and shall
9 forthwith forfeit his right to operate a motor vehicle over the
10 highways of this State for a period of not less than seven months
11 nor more than one year;

12 (iii) For a first offense, a person also shall be **[subject]**
13 **²[required to install an ignition interlock device pursuant] subject²**
14 to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

15 (2) For a second violation, a person shall be subject to a fine of
16 not less than \$500.00 nor more than \$1,000.00, and shall be ordered
17 by the court to perform community service for a period of 30 days,
18 which shall be of such form and on such terms as the court shall
19 deem appropriate under the circumstances, and shall be sentenced to
20 imprisonment for a term of not less than 48 consecutive hours,
21 which shall not be suspended or served on probation, nor more than
22 90 days, and shall forfeit his right to operate a motor vehicle over
23 the highways of this State for a period of two years upon
24 conviction, and, after the expiration of said period, he may make
25 application to the Chief Administrator of the New Jersey Motor
26 Vehicle Commission for a license to operate a motor vehicle, which
27 application may be granted at the discretion of the chief
28 administrator, consistent with subsection (b) of this section. For a
29 second violation, a person also shall be required to install an
30 ignition interlock device under the provisions of P.L.1999, c.417
31 (C.39:4-50.16 et al.) **[or shall have his registration certificate and**
32 **registration plates revoked for two years under the provisions of**
33 **section 2 of P.L.1995, c.286 (C.39:3-40.1)].**

34 (3) For a third or subsequent violation, a person shall be subject
35 to a fine of \$1,000.00, and shall be sentenced to imprisonment for a
36 term of not less than 180 days in a county jail or workhouse, except
37 that the court may lower such term for each day, not exceeding 90
38 days, served participating in a drug or alcohol inpatient
39 rehabilitation program approved by the Intoxicated Driver Resource
40 Center and shall thereafter forfeit his right to operate a motor
41 vehicle over the highways of this State for 10 years. For a third or
42 subsequent violation, a person also shall be required to install an
43 ignition interlock device under the provisions of P.L.1999, c.417
44 (C.39:4-50.16 et al.) **[or shall have his registration certificate and**
45 **registration plates revoked for 10 years under the provisions of**
46 **section 2 of P.L.1995, c.286 (C.39:3-40.1)].**

47 As used in this section, the phrase "narcotic, hallucinogenic or
48 habit-producing drug" includes an inhalant or other substance

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

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

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

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

1 Center as provided in subsection (f).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 paragraph (1) of this subsection.

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

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

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

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

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

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

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

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

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

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

22 (cf: P.L.2004, c.8, s.2)

23

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

26 2. a. ²[In] (1) Except as provided in paragraph (2) of this
27 subsection, in² sentencing a first offender under R.S.39:4-50, the
28 court [may] ²[shall] may² order, in addition to any other penalty
29 imposed by that section, the installation of an ¹ignition¹ interlock
30 device in ³[every] the³ motor vehicle ³[owned, leased or regularly]
31 principally³ operated by the offender ²[¹during and¹]² following
32 the expiration of the period of license suspension imposed under
33 that section. ³In sentencing a first offender under section 2 of
34 P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to
35 any other penalty imposed by that section, the installation of an
36 ignition interlock device in the motor vehicle principally operated
37 by the offender during and following the expiration of the period of
38 license suspension imposed under that section.³ [The] ²[In
39 addition to installation during the period of license suspension, the]
40 The² device shall remain installed for not less than six months or
41 more than one year, commencing immediately upon the return of
42 the offender's driver's license after the required period of
43 suspension has been served.

44 ²(2) If the first offender's blood alcohol concentration is 0.15 %
45 or higher, the court shall order, in addition to any other penalty
46 imposed under R.S.39:4-50, the installation of an ignition interlock
47 device in ³[every] the³ motor vehicle ³[owned, leased or regularly]

1 principally³ operated by the offender during and following the
2 expiration of the period of license suspension imposed under that
3 section. In addition to installation during the period of license
4 suspension, the device shall remain installed for not less than six
5 months or more than one year, commencing immediately upon the
6 return of the offender's driver's license after the required period of
7 suspension has been served.²

8 b. In sentencing a second or subsequent offender under
9 R.S.39:4-50 ³or section 2 of P.L.1981, c.512 (C.39:4-50.4a)³, the
10 court **[may]** shall order, in addition to any other penalty imposed
11 by that section, the installation of an ²ignition² interlock device in
12 ³**[every]** the³ motor vehicle ³[owned, leased or regularly]
13 principally³ operated by the offender during and following the
14 expiration of the period of license suspension imposed under
15 R.S.39:4-50 ³or section 2 of P.L.1981, c.512 (C.39:4-50.4a)³.
16 **[The]** In addition to installation during the period of license
17 suspension, the device shall remain installed for not less than one
18 year or more than three years, commencing immediately upon the
19 return of the offender's driver's license after the required period of
20 suspension has been served.

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

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

29 ³e. The provisions of P.L.1999, c.417 (C.39:4-50.16 et al) and
30 any amendments and supplements thereto shall be applicable only
31 to violations of R.S.39:4-50 and section 2 of P.L.1981, c.512
32 (C.39:4-50.4a).³

33 (cf: P.L.2000, c.83, s.4)

34
35 3. Section 4 of P.L.1999, c.417 (C.39:4-50.19) is amended to
36 read as follows:

37 4. a. A person who fails to install an interlock device ordered
38 by the court in a motor vehicle owned, leased or regularly operated
39 by him shall have his driver's license suspended for one year, in
40 addition to any other suspension or revocation imposed under
41 R.S.39:4-50, unless the court determines a valid reason exists for
42 the failure to comply. A person in whose vehicle an interlock
43 device is installed pursuant to a court order who drives that vehicle
44 after it has been started by any means other than his own blowing
45 into the device or who drives a vehicle that is not equipped with
46 such a device shall have his driver's license suspended for one year,
47 in addition to any other penalty applicable by law.

1 b. A person is a disorderly person who:

2 (1) ~~Blows~~ ~~'blows~~ blows¹ into an interlock device or
3 otherwise starts a motor vehicle equipped with such a device for the
4 purpose of providing an operable motor vehicle to a person who has
5 been ordered by the court to install the device in the vehicle~~].~~;

6 (2) ~~Tampers~~ tampers or in any way circumvents the operation
7 of an interlock device ~~].~~; or

8 (3) ~~Knowingly~~ knowingly rents, leases or lends a motor
9 vehicle not equipped with an interlock device to a person who has
10 been ordered by the court to install an interlock device in a vehicle
11 he owns, leases or regularly operates.

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

17 (cf: P.L.2000, c.83, s.4)

18

19 4. Section 2 of P.L.1995, c.286 (C.39:3-40.1) is amended to
20 read as follows:

21 2. a. Any motor vehicle registration certificate and registration
22 plates shall be revoked if a person is convicted of violating the
23 provisions of:

24 (1) subsection a. of R.S.39:3-40 for operating a motor vehicle
25 during a period when that violator's driver's license has been
26 suspended for a violation of R.S.39:4-50; or

27 (2) subsection b. or c. of R.S.39:3-40 for operating a motor
28 vehicle during a period when that violator's driver's license has been
29 suspended within a five-year period ~~].~~; or

30 (3) R.S.39:4-50 for a second or subsequent offense, if such
31 revocation is ordered by the court as authorized under that section].

32 (Deleted by amendment, P.L. _____, c. _____) (pending before the
33 Legislature as this bill)

34 This revocation of registration certificate and registration plates
35 shall apply to all passenger automobiles and motorcycles owned or
36 leased by the violator and registered under the provisions of
37 R.S.39:3-4 and all noncommercial trucks owned or leased by the
38 violator and registered under the provisions of section 2 of
39 P.L.1968, c.439 (C.39:3-8.1), including those passenger
40 automobiles, motorcycles and noncommercial trucks registered or
41 leased jointly in the name of the violator and the other owner of
42 record.

43 b. At the time of conviction, the court shall notify each violator
44 that the person's passenger automobile, motorcycle, and
45 noncommercial truck registrations are revoked. Notwithstanding
46 the provisions of R.S.39:5-35, the violator shall surrender the
47 registration certificate and registration plates of all passenger

1 automobiles, motorcycles, and noncommercial truck registrations
2 subject to revocation under the provisions of this section within 48
3 hours of the court's notice. The surrender shall be at a place and in
4 a manner prescribed by the Director of the Division of Motor
5 Vehicles pursuant to rule and regulation. The court also shall notify
6 the violator that a failure to surrender that vehicle registration
7 certificate and registration plates shall result in the impoundment of
8 the vehicle in accordance with the provisions of section 4 of
9 P.L.1995, c.286 (C.39:3-40.3) and the seizure of said registration
10 certificate and registration plates. The revocation authorized under
11 the provisions of this subsection shall remain in effect for the period
12 during which the violator's license to operate a motor vehicle is
13 suspended and shall be enforced so as to prohibit the violator from
14 registering or leasing any other vehicle, however acquired, during
15 that period.

16 c. If the violator subject to the penalties set forth in subsections
17 a. and b. of this section for conviction of violating the provisions of
18 R.S.39:3-40 was operating a motor vehicle owned or leased by
19 another person and that other owner or lessee permitted that
20 operation with knowledge that the violator's driver's license was
21 suspended, the court shall suspend the person's license to operate a
22 motor vehicle and revoke the registration certificate and registration
23 plates for that vehicle for a period of not more than six months.
24 Notwithstanding the provisions of R.S.39:3-35, the owner or lessee
25 shall surrender the registration certificate and registration plates of
26 that vehicle within 48 hours of the court's notice of revocation. The
27 surrender shall be at a place and in a manner prescribed by the
28 Director of the Division of Motor Vehicles pursuant to rule and
29 regulation. The court also shall notify the owner or lessee that a
30 failure to surrender the revoked registration certificate and
31 registration plates shall result in the impoundment of the vehicle in
32 accordance with the provisions of section 4 of P.L.1995, c.286
33 (C.39:3-40.3) and the seizure of said registration certificate and
34 registration plates. Nothing in this subsection shall be construed to
35 limit the court from finding that owner or lessee guilty of violating
36 R.S.39:3-39 or any other such statute concerning the operation of a
37 motor vehicle by an unlicensed driver.
38 (cf: P.L.2000, c.83, s.2)

39
40 ³⁵. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to
41 read as follows:

42 2. a. Except as provided in subsection b. of this section, the
43 municipal court shall revoke the right to operate a motor vehicle of
44 any operator who, after being arrested for a violation of R.S.39:4-50
45 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to
46 submit to a test provided for in section 2 of P.L.1966, c.142
47 (C.39:4-50.2) when requested to do so, for not less than seven
48 months or more than one year unless the refusal was in connection

1 with a second offense under this section, in which case the
2 revocation period shall be for two years or unless the refusal was in
3 connection with a third or subsequent offense under this section in
4 which case the revocation shall be for ten years. A conviction or
5 administrative determination of a violation of a law of a
6 substantially similar nature in another jurisdiction, regardless of
7 whether that jurisdiction is a signatory to the Interstate Driver
8 License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.),
9 shall constitute a prior conviction under this section.

10 The municipal court shall determine by a preponderance of the
11 evidence whether the arresting officer had probable cause to believe
12 that the person had been driving or was in actual physical control of
13 a motor vehicle on the public highways or quasi-public areas of this
14 State while the person was under the influence of intoxicating
15 liquor or a narcotic, hallucinogenic, or habit-producing drug or
16 marijuana; whether the person was placed under arrest, if
17 appropriate, and whether he refused to submit to the test upon
18 request of the officer; and if these elements of the violation are not
19 established, no conviction shall issue. In addition to any other
20 requirements provided by law, a person whose operator's license is
21 revoked for refusing to submit to a test shall be referred to an
22 Intoxicated Driver Resource Center established by subsection (f.) of
23 R.S.39:4-50 and shall satisfy the same requirements of the center
24 for refusal to submit to a test as provided for in section 2 of
25 P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second,
26 third or subsequent offense under this section that must be satisfied
27 by a person convicted of a commensurate violation of this section,
28 or be subject to the same penalties as such a person for failure to do
29 so. For a first offense, the revocation may be concurrent with or
30 consecutive to any revocation imposed for a conviction under the
31 provisions of R.S.39:4-50 arising out of the same incident. For a
32 second or subsequent offense, the revocation shall be consecutive to
33 any revocation imposed for a conviction under the provisions of
34 R.S.39:4-50. In addition to issuing a revocation, except as provided
35 in subsection b. of this section, the municipal court shall fine a
36 person convicted under this section, a fine of not less than \$300 or
37 more than \$500 for a first offense; a fine of not less than \$500 or
38 more than \$1,000 for a second offense; and a fine of \$1,000 for a
39 third or subsequent offense. The person also shall be required to
40 install an ignition interlock device pursuant to the provisions of
41 P.L.1999. c.417 (C39:4-50.16 et al.).

42 b. For a first offense, the fine imposed upon the convicted
43 person shall be not less than \$600 or more than \$1,000 and the
44 period of license suspension shall be not less than one year or more
45 than two years; for a second offense, a fine of not less than \$1,000
46 or more than \$2,000 and a license suspension for a period of four
47 years; and for a third or subsequent offense, a fine of \$2,000 and a

1 license suspension for a period of 20 years when a violation of this
2 section occurs while:

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

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

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

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

18 It shall not be relevant to the imposition of sentence pursuant to
19 paragraph (1) or (2) of this subsection that the defendant was
20 unaware that the prohibited conduct took place while on or within
21 1,000 feet of any school property or while driving through a school
22 crossing. Nor shall it be relevant to the imposition of sentence that
23 no juveniles were present on the school property or crossing zone at
24 the time of the offense or that the school was not in session.³

25 (cf: P.L.2007, c.267, s.2)

26

27 ³6. (New section) a. If a person is required to install an ignition
28 interlock device and that person's family income does not exceed
29 100% of the federal poverty level, the monthly leasing fee shall be
30 50% of the fee established by regulation for persons who do not
31 qualify for the reduced fee.

32 b. If a person is required to install an ignition interlock device
33 and that person's family income does not exceed 149% of the
34 federal poverty level, the monthly leasing fee shall be 75% of the
35 fee established by regulation for persons who do not qualify for the
36 reduced fee.

37 c. Persons who qualify for a reduced fee pursuant to the
38 provisions of this section shall not be required to pay the
39 installation fee, the cost for monitoring of the device, or any fees
40 for calibration or removal of the device.³

41

42 ³[5.] 7.³ This act shall take effect immediately.