

Garden State CLE presents:

New DWI Sentencing – Ignition interlock devices



Lesson Plan

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Introduction – Public Policy



The Legislature finds and declares that:

- a. State law has required repeat drunk drivers and drunk drivers with a high blood alcohol concentration (BAC) to install an ignition interlock device since January 2001, but installation of these devices is not mandatory for other first time offenders.**
- b. Because a majority of drunk drivers, including first time offenders, often continue to drive with suspended licenses, ignition interlock devices are more effective in deterring drunk driving than license suspension.**
- c. Ignition interlock devices are paid for by the offender and constitute a low cost solution to a dangerous and often fatal activity that imposes large social and economic costs on society. Studies indicate that the potential for interlock device programs to prevent alcohol-involved driving and alcohol-related crashes is most significant when the program is applied to a broader cross-section of offenders and a higher proportion of offenders are required to install the devices. To protect the public safety, states that currently do not require mandatory participation for all first time offenders should adopt strong interlock device programs to prevent future costly alcohol-related fatal crashes.**
- d. For example, according to a recent national study by the Insurance Institute for Highway Safety (IIHS), state laws mandating interlock devices for drunk drivers reduced the number of drivers in fatal crashes with a blood alcohol content of 0.08 percent or higher by 16 percent compared to states with no interlock law, three percent when ignition interlock devices were required for repeat offenders, and eight percent when required for first time and repeat offenders.**
- e. Reportedly, ignition interlock devices have prevented more than 73,740 attempts to drive with a BAC over the legal limit of 0.08 percent in this State over the past 11 years.**

f. Numerous organizations support requiring the use of ignition interlock devices by all convicted drunk drivers, including all first-time offenders, including: Mothers Against Drunk Driving, Advocates for Auto and Highway Safety, American Automobile Association, American Trucking Association, Auto Alliance, Centers for Disease Control and Prevention, Foundation for Advancing Alcohol Responsibility, Insurance Institute for Highway Safety, International Association of Chiefs of Police, National Academy of Sciences, National Football League, National Safety Council, and National Transportation Safety Board.

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



Part I – General Changes to NJSA 39:4-50 sentencing law

- a.) The statute signed into law by the governor on August 23, 2019 was enacted under Senate Bill 824. The amendments affect NJSA 39:4-50, NJSA 39:4-50.4a, NJSA 39:4-50.17 and 39:4-50.18.
- b.) The Amendments become effective on the first day of the fourth month after enactment (December 1, 2019) and shall apply to any offense occurring on or after that date. (NJSA 39:4-50.18(f)(7)).
- c.) There is a sunset provision in the Act which causes it to expire on December 1, 2014. (NJSA 39:4-50.18(f)(7)).
- d.) School zone violations are eliminated for both drunk-driving and refusal under the bills.
- e.) Suspension of driving privileges is now referred to as “forfeiture.”
- f.) The allowing offense is now predicated upon the defendant allowing the intoxicated operation of a vehicle the defendant “owns or which is in the person’s custody or control. Allowing applies to both under the influence of drugs/alcohol and *per se* violations.
- g.) Fines and jail terms are the same as in the current statute.
- h.) Ignition interlock devices (IID) apply only to one motor vehicle owned, leased, or principally operated by the defendant, whichever the person most often operates.
- i.) IID provisions no longer apply to first offender defendants who drive under the influence of drugs or those who allow drugged operation. These offenders are subject to a first offender license forfeiture ranging from 7 months to one year. (NJSA 39:4-50(a)(1)(ii)).



j.) During of the period of IID installation imposed by the sentencing judge, the defendant may not operate any vehicle that is not equipped with an IID. (NJSA 39:4-50.17(c)). A notation to this effect will be imprinted on the operator's license. (NJSA 39:4-50.18(b)).

k.) The defendant shall provide to the court information identifying the motor vehicle on which the ignition interlock is to be installed, and any other information deemed relevant by the court, including, but not limited to, the offender's complete name, address, date of birth, eye color, and gender. (NJSA 39:4-50.17(c)).





Part II – First Offender Sentencing

a.) First offenders charged with driving under the influence of alcohol or with a BAC ranging from .08 but less than 0.10

The sentencing judge must impose an indefinite period of license forfeiture until the defendant installs an ignition interlock device in one motor vehicle the person owns, leases, or principally operates whichever the person most often operates. The IID must remain installed for three months (See NJSA 39:4-50.17(a)(1))

Comment: This amendment would allow a first offender to avoid a license loss completely by installing an IID on his vehicle prior to entry of the guilty plea (or finding) prior to conviction.

b.) First offenders charged with driving with a BAC ranging from 0.10 but less than 0.15%

The sentencing judge must impose an indefinite period of license forfeiture until the defendant installs an ignition interlock device in one motor vehicle the person owns, leases, or principally operates whichever the person most often operates. The IID must remain installed for period ranging from seven months to one year. (See NJSA 39:4-50.17(a)(1)(b)).

Comment: This amendment would allow a first offender to avoid a license loss completely by installing an IID on his vehicle prior to entry of the guilty plea (or finding) prior to conviction.

c.) First offenders charged with driving with a BAC of 0.15% or greater

The determinate term of license forfeiture for a defendant with this BAC level does not begin to run until the defendant has installed an IID in one motor vehicle the person owns, leases, or principally operates whichever the person most often operates. Thereafter, the suspension term will range from 4 to 6 months. The IID must remain installed during the determinate term of the forfeiture and for an additional period of 9 to 15 months after the defendant's driver's license has been returned. (NJSA 39:4-50-17(a)(2)(b)).

Comment: Although the statute is silent on this issue, presumably the judge will initially impose an indefinite forfeiture term which will be turned into a determinate term once the IID has been installed and appropriate proof has been presented to the Court. Once again, pre-conviction installation of an IID will shorten the effect term of the forfeiture.

d.) First offenders charged with driving under the influence of drugs or allowing operation while under the influence of drugs.

There is no IID required for these defendants. Forfeiture ranges from 7 months to one year.



e.) First offenders charged with driving under the influence of alcohol or with a BAC in excess of 0.08% who do not own a vehicle or drive.

There are new provisions that exempt defendants who do not own or drive motor vehicles from the IID requirements. An offender who does not own, lease, or operate a motor vehicle shall attest to this to the court. A violation of this provision shall constitute perjury pursuant to N.J.S.2C:28-1. An offender immediately shall notify the court of the purchase, lease, or access to operation of a motor vehicle and install an ignition interlock device in the vehicle. The driver's license of an offender who attests to not owning, leasing, or operating a motor vehicle shall be forfeited for the ignition interlock installation period required pursuant to subsections a. and b. of NJSA 39:4-50.17.

License forfeiture range:

**Under the influence of alcohol or BAC of less than 0.10% = three months
BAC ranging from .010 but less than 0.15% = 7 months to one year
BAC of 0.15% or greater = 9 to 15 months.**

Comment – The statute is unclear for those with a BAC of 0.15% or greater since the IID requirement subsumes an initial IID installation during the 4 to 6 months initial forfeiture period.



Part III – Second Offender Sentencing

Second offenders are subject to a license forfeiture ranging from one to two years. NJSA 39:4-50(a)(2). The IID must be installed both during and following the period of forfeiture set forth in the sentence. (NJSA 39:4-50.17(b)) After the forfeiture term is over and the defendant has received his license again, the IID must remain installed for an additional term ranging from 2 to 4 years. (NJSA 39:4-50.17(b)). Those defendants without a vehicle must serve a forfeiture ranging from 2 to 4 years. (NJSA 39:4-50.17(c)).

Note, the amended statute does not specifically exclude U/I drugs drug or allowing drugged operation cases from the IID requirement as it does for first offenders.



Part IV – Third or subsequent Offender Sentencing

Third or subsequent offenders are subject to a license forfeiture of 8 years. NJSA 39:4-50(a)(3). The IID must be installed both during and after the forfeiture term in the sentence of the Court and must remain installed for an additional period ranging from 2 to 4 years after the forfeiture term is over and the defendant's license has been restored. (NJSA 39:4-50.17(b)). Those defendants without a vehicle must serve a forfeiture ranging from 2 to 4 years. (NJSA 39:4-50.17(c)).

Note, the amended statute does not specifically exclude U/I drugs drug or allowing drugged operation cases from the IID requirement as it does for first offenders.



Part V – Refusals: First offense

For a first refusal, the judge must impose an indefinite forfeiture of driving privileges until the defendant installs an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates. The IID must remain on the vehicle for a term ranging from 9 to 15 months (NJSA 39:4-50.17(a)(2)).

Comment: This amendment would allow a first offender to avoid a license loss completely by installing an IID on his vehicle prior to entry of the guilty plea (or finding) prior to conviction.

Refusals: Second offense



Second offenders begin with an indefinite suspension. Thereafter, they are subject to a license forfeiture for a period of not less than one year or more than two years that begins following the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates. Once the defendant gets his driving privileges restored, the IID must remain installed for an additional period ranging from 2 to 4 years.

Refusals: Third or subsequent offenses

Third or subsequent offenders begin with an indefinite suspension. Thereafter, they are subject to a license forfeiture for a period of 8 years that begins following the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates. Once the defendant gets his driving privileges restored, the IID must remain installed for an additional period ranging from 2 to 4 years.

Part VI - Removal IID following sentence completion – NJSA 39:4-50.18(c).

An ignition interlock device can be removed on the date the defendant completes the installation period only if he submits to the MVC certification from the IID vendor that:

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

(2) that the defendant complied with all required maintenance, repair, calibration, monitoring, and inspection requirements related to the device.

If the vendor does not issue a certification to the person because there were two or more test results of 0.08 BAC or greater during the final 30 days, the vendor must forward the violation information to the MVC and the court. The municipal court judge must then decide whether to extend the period of ignition interlock device installation for up to 90 days or order the issuance of the certification from the vendor to the chief administrator.



Appendix – Statutes as amended (S824)



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

39:4-50. (a) [Except as provided in subsection (g) of this section, a] A person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.08% or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle [owned by him or in his] the person owns or which is in the person's custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.08% or more by weight of alcohol in the defendant's blood shall be subject:

(1) For the first offense:

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

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

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

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

in the case of a person whose blood alcohol concentration is 0.15% or higher, the person shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not less than four months or more than six months following

installation of an ignition interlock device in one motor vehicle the person owns, leases, or principally operates, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.);

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

(2) For a second violation, a person shall be subject to a fine of not less than \$500 nor more than \$1,000, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on [such] terms [as] the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, [nor] or more than 90 days, and shall forfeit [his] the right to operate a motor vehicle over the highways of this State for a period of not less than one year or more than two years upon conviction[, and after].

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

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



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



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

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

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

~~—(3) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution, the convicted person shall: for a first offense, be fined not less than \$500 or more than \$800, be imprisoned for not more than 60 days and have his license to operate a motor vehicle suspended for a period of not less than one year or more than two years; for a second offense, be fined not less than \$1,000 or more than \$2,000, perform community service for a period of 60 days, be imprisoned for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and have his license to operate a motor vehicle suspended for a period of four years; and, for a third offense, be fined \$2,000, imprisoned for 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center, and have his license to operate a motor vehicle suspended for a period of~~

~~20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.~~

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

~~—It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.] Deleted by amendment, P.L. ___ c. (pending before the Legislature as this bill)~~



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

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

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

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

(3) if the refusal was in connection with a third or subsequent offense under this section [in which case the revocation shall be for ten years], to forfeit the right to operate a motor vehicle over the highways of this State for a period of eight years following the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the person, whichever the person most often operates, for the purpose of complying with the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.). A conviction or administrative determination of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marijuana; whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in

connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. For a first offense, the revocation may be concurrent with or consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50 arising out of the same incident. For a second or subsequent offense, the revocation shall be consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, [except as provided in subsection b. of this section,] the municipal court shall fine a person convicted under this section, a fine of not less than \$300 or more than \$500 for a first offense; a fine of not less than \$500 or more than \$1,000 for a second offense; and a fine of \$1,000 for a third or subsequent offense. [The person also shall be required to install an ignition interlock device pursuant to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).]

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

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

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

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



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

~~—It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.] (Deleted by amendment, P.L. , c.)~~
(pending before the Legislature as this bill)



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

2. a. (1) Except as provided in paragraph (2) of this subsection, (a) in sentencing a first offender under subparagraph (i) of paragraph (1) of subsection (a) of R.S.39:4-50, whose blood alcohol concentration was at least 0.08% but less than 0.10%, or who was otherwise under the influence of intoxicating liquor, the court [may] shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in [the] one motor vehicle owned, leased, or principally operated by the offender [following the expiration of the period of license suspension imposed under that section. In sentencing a first offender under section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed under that section. The device], whichever the offender most often operates, which shall remain installed for [not less than six months or more than one year,

commencing immediately upon the return of the offender's driver's license after the required period of suspension has been served] three months.

(b) In sentencing a first offender under subparagraph (ii) of paragraph (1) of subsection (a) of R.S.39:4-50 whose blood alcohol concentration was 0.10% or higher, but less than 0.15%, the court shall order, in addition to any other penalty imposed, the installation of an ignition interlock device in one motor vehicle owned, leased, or principally operated by the offender, whichever the offender most often operates, which shall remain installed for not less than seven months or more than one year.

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

b. In sentencing a second or subsequent offender under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the court shall order, in addition to any other penalty imposed by that section, the installation of an ignition interlock device in the motor vehicle principally operated by the offender during and following the expiration of the period of license [suspension] forfeiture imposed under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a). In addition to installation during the period of license [suspension] forfeiture, the device shall remain installed for not less than [one year] two years or more than

~~[three]~~ four years, commencing immediately upon installation of the device and the return of the offender's driver's license pursuant to section 3 of P.L.1999, c.417 (C.39:4-50.18) after the required period of ~~[suspension]~~ forfeiture has been served.

c. The court shall require that, for the duration of its order, an offender shall not drive ~~[no]~~ any vehicle other than one in which an ignition interlock device has been installed pursuant to the order.

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

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

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

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

f. A person who does not possess a valid driver's license issued by this State at the time of the imposition of a sentence pursuant to this section shall be prohibited from obtaining a driver's license for the duration of that sentence. Upon obtaining a

driver's license, the person shall be sentenced to a period of ignition interlock device installation pursuant to the provisions of this section.



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

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

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

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

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

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

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

16. (New section) The chief administrator semiannually shall issue a summary report containing the following information concerning offenders required to install an ignition interlock device pursuant to section 2 of P.L.1999, c.417 (C.39:4-50.17):

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

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

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

d. the percent of offenders who remove the ignition interlock device because they are unable to afford continued installation.¹



1[6] 7¹. This act shall take effect on the first day of the fourth month after enactment and shall apply to any offense occurring on or after that date¹; the act shall expire on the first day of the fifth year next following the effective date¹. The Chief Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action in advance of that date as shall be necessary to implement the provisions of this act.



Garden State CLE presents:

New DWI Sentencing – Ignition interlock devices



Lesson Plan

Robert Ramsey, Instructor

DRUG EVALUATION AND CLASSIFICATION PROGRAM

9,116 CERTIFIED DRE'S IN THE U.S.

2,900 LAW ENFORCEMENT AGENCIES IN THE U.S. THAT EMPLOY DRE'S.

NJ-APPROXIMATELY 459 DRE'S.

NJ- OVER 2,000 DRE EVALUATIONS CONDUCTED IN 2017.

30,989 DRE EVALUATIONS CONDUCTED NATIONWIDE IN
2017

MOST COMMON DRUG DETECTED IN NJ- NARCOTIC
ANALGESIC (OPIATE)

MOST COMMON DRUG DETECTED IN US- CANNABIS

DRUG CATEGORIES

DEPRESSANTS

STIMULANTS

HALLUCINOGENS

DISSOCIATIVE ANESTHETICS
NARCOTIC
INHALANTS
CANNABIS

DRE EVALUATION IS A 12 STEP
PROCESS

STEP 1

BREATH
ALCOHOL TEST

To determine whether alcohol may be contributing to any observed impairment.

STEP 2

Interview of arresting Officer

STEP 3

Preliminary Examination

Systematically assessing the subjects appearance, behavior, medical questions. Initial estimation of pupil size, tracking, and first pulse.

STEP 4

HGN, VGN, LOC

STEP 5

DIVIDED ATTENTION TESTS

Romberg Balance
Walk and Turn
One Leg Stand
Finger to Nose

STEP 6

VITALS SIGNS

second pulse, blood pressure and body temperature

STEP 7

DARKROOM EXAMINATION

DRE will measure the subject's pupils and pupillary reaction to light.

STEP 8

Muscle Tone

STEP 9

Examination for injection sites

STEP 10

INTERVIEW/STATEMENTS

At this time the DRE will ask the subject questions regarding the drug category he believes is causing the impairment.

STEP II

DRE'S OPINION

STEP 12

TOXICOLOGY