

[First Reprint]

**ASSEMBLY, No. 2259**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED FEBRUARY 9, 2004

**Sponsored by:**

**Assemblyman ROBERT J. SMITH**

**District 4 (Camden and Gloucester)**

**Assemblywoman LORETTA WEINBERG**

**District 37 (Bergen)**

**Co-Sponsored by:**

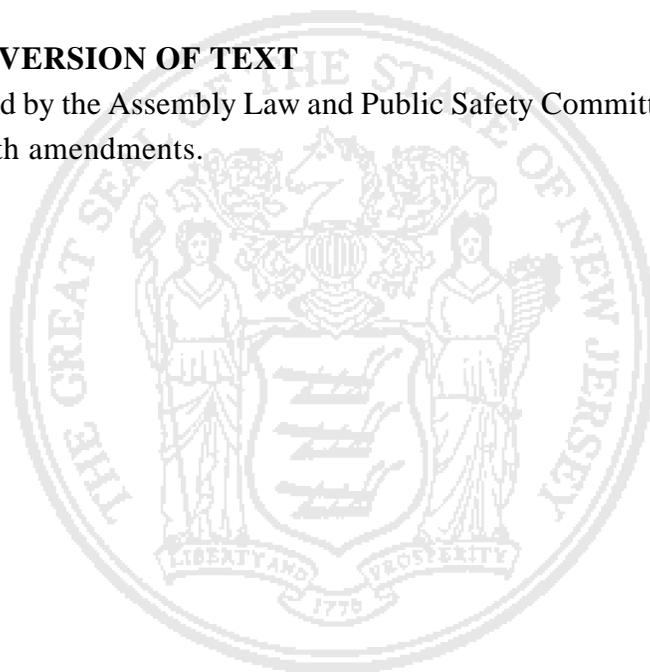
**Senators Vitale, Karcher and Cunningham**

**SYNOPSIS**

Clarifies sentencing provisions for certain drunk driving offenses.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Law and Public Safety Committee on February 26, 2004, with amendments.



**(Sponsorship Updated As Of: 3/30/2004)**

1 AN ACT concerning refusal to submit to a breath test, amending  
2 P.L.1981, c.512 and <sup>1</sup>R.S.39:4-50, and<sup>1</sup> supplementing chapter 4  
3 of Title 39 of the Revised Statutes.

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

7  
8 1. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to read  
9 as follows:

10 2. a. Except as provided in subsection b. of this section, the  
11 municipal court shall revoke the right to operate a motor vehicle of  
12 any operator who, after being arrested for a violation of R.S.39:4-50,  
13 shall refuse to submit to a test provided for in section 2 of P.L.1966,  
14 c.142 (C.39:4-50.2) when requested to do so, for **[six months]** not  
15 less than seven months or more than one year unless the refusal was  
16 in connection with a second offense under this section, in which case  
17 the revocation period shall be for two years or unless the refusal was  
18 in connection with a third or subsequent offense under this section in  
19 which case the revocation shall be for ten years. A conviction or  
20 administrative determination of a violation of a law of a substantially  
21 similar nature in another jurisdiction, regardless of whether that  
22 jurisdiction is a signatory to the Interstate Driver License Compact  
23 pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior  
24 conviction under this section.

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

**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:**

<sup>1</sup> Assembly ALP committee amendments adopted February 26, 2004.

1 section, or be subject to the same penalties as such a person for failure  
2 to do so. ~~[The] For a first offense, the revocation may be concurrent~~  
3 ~~with or consecutive to any revocation imposed for a conviction under~~  
4 ~~the provisions of R.S.39:4-50 arising out of the same incident. For a~~  
5 ~~second or subsequent offense, the~~ revocation shall be ~~[independent~~  
6 ~~of] consecutive to~~ any revocation imposed ~~[by virtue of] for~~ a  
7 conviction under the provisions of R.S.39:4-50. In addition to issuing  
8 a revocation, except as provided in subsection b. of this section, the  
9 municipal court shall fine a person convicted under this section, a fine  
10 of not less than ~~[\$250.00 nor] \$300~~ or more than ~~[\$500.00] \$500~~ for  
11 ~~a first offense; a fine of not less than \$500 or more than \$1,000 for a~~  
12 ~~second offense; and a fine of \$1,000 for a third or subsequent offense.~~

13 b. ~~[The] For a first offense, the fine imposed upon the convicted~~  
14 ~~person shall be not less than [\$500] \$600~~ or more than \$1,000 and the  
15 period of license suspension shall be ~~not less than~~ one year ~~[for a first~~  
16 ~~offense, four years for a second offense and 20 years for a third or~~  
17 ~~subsequent offense, which period shall commence upon the completion~~  
18 ~~of any prison sentence imposed upon that person] <sup>1</sup>or more than two~~  
19 ~~years<sup>1</sup>; for a second offense, a fine of not less than \$1,000 or more~~  
20 ~~than \$2,000 and a license suspension for a period of <sup>1</sup>[not less than]<sup>1</sup>~~  
21 ~~four years; and for a third or subsequent offense, a fine of \$2,000 and~~  
22 ~~a license suspension for a period of 20 years~~ when a violation of this  
23 section occurs while:

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

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

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

33 A map or true copy of a map depicting the location and boundaries  
34 of the area on or within 1,000 feet of any property used for school  
35 purposes which is owned by or leased to any elementary or secondary  
36 school or school board produced pursuant to section 1 of P.L.1997,  
37 c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1)  
38 of this subsection.

39 It shall not be relevant to the imposition of sentence pursuant to  
40 paragraph (1) or (2) of this subsection that the defendant was unaware  
41 that the prohibited conduct took place while on or within 1,000 feet  
42 of any school property or while driving through a school crossing.  
43 Nor shall it be relevant to the imposition of sentence that no juveniles  
44 were present on the school property or crossing zone at the time of the

1 offense or that the school was not in session.

2 (cf: P.L.1999, c.185, s.5)

3

4 <sup>1</sup>2. R.S.39:4-50 is amended to read as follows:

5 39:4-50. (a) Except as provided in subsection (g) of this section, a  
6 person who operates a motor vehicle while under the influence of  
7 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug,  
8 or operates a motor vehicle with a blood alcohol concentration of  
9 0.08% or more by weight of alcohol in the defendant's blood or  
10 permits another person who is under the influence of intoxicating  
11 liquor, narcotic, hallucinogenic or habit-producing drug to operate a  
12 motor vehicle owned by him or in his custody or control or permits  
13 another to operate a motor vehicle with a blood alcohol concentration  
14 of 0.08% or more by weight of alcohol in the defendant's blood shall  
15 be subject:

16 (1) For the first offense:

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

32 (ii) if the person's blood alcohol concentration is 0.10% or higher,  
33 or the person operates a motor vehicle while under the influence of  
34 narcotic, hallucinogenic or habit-producing drug, or the person permits  
35 another person who is under the influence of narcotic, hallucinogenic  
36 or habit-producing drug to operate a motor vehicle owned by him or  
37 in his custody or control, or permits another person with a blood  
38 alcohol concentration of 0.10% or more to operate a motor vehicle, to  
39 a fine of not less than \$300 nor more than \$500 and a period of  
40 detainment of not less than 12 hours nor more than 48 hours spent  
41 during two consecutive days of not less than six hours each day and  
42 served as prescribed by the program requirements of the Intoxicated  
43 Driver Resource Centers established under subsection (f) of this  
44 section and, in the discretion of the court, a term of imprisonment of  
45 not more than 30 days and shall forthwith forfeit his right to operate  
46 a motor vehicle over the highways of this State for a period of not less

1 than seven months nor more than one year;

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

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

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

35 As used in this section, the phrase "narcotic, hallucinogenic or  
36 habit-producing drug" includes an inhalant or other substance  
37 containing a chemical capable of releasing any toxic vapors or fumes  
38 for the purpose of inducing a condition of intoxication, such as any  
39 glue, cement or any other substance containing one or more of the  
40 following chemical compounds: acetone and acetate, amyl nitrite or  
41 amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite,  
42 butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite  
43 or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl  
44 alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl  
45 alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl  
46 nitrate or their isomers, toluene, toluol or xylene or any other chemical

1 substance capable of causing a condition of intoxication, inebriation,  
2 excitement, stupefaction or the dulling of the brain or nervous system  
3 as a result of the inhalation of the fumes or vapors of such chemical  
4 substance.

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

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

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

39 A person who has been convicted of a previous violation of this  
40 section need not be charged as a second or subsequent offender in the  
41 complaint made against him in order to render him liable to the  
42 punishment imposed by this section on a second or subsequent  
43 offender, but if the second offense occurs more than 10 years after the  
44 first offense, the court shall treat the second conviction as a first  
45 offense for sentencing purposes and if a third offense occurs more than  
46 10 years after the second offense, the court shall treat the third

1 conviction as a second offense for sentencing purposes.

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

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

44 (d) The chief administrator shall promulgate rules and regulations  
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
46 (C.52:14B-1 et seq.) in order to establish a program of alcohol

1 education and highway safety, as prescribed by this act.

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

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

29 Upon a person's failure to report to the initial screening or any  
30 subsequent ordered referral, the Intoxicated Driver Resource Center  
31 shall promptly notify the sentencing court of the person's failure to  
32 comply.

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

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

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

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

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

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

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

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

41 It shall not be relevant to the imposition of sentence pursuant to  
42 paragraph (1) or (2) of this subsection that the defendant was unaware  
43 that the prohibited conduct took place while on or within 1,000 feet  
44 of any school property or while driving through a school crossing.  
45 Nor shall it be relevant to the imposition of sentence that no juveniles  
46 were present on the school property or crossing zone at the time of the

1 offense or that the school was not in session.

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

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

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

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

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

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

1 pursuant to the program, and any person supervising a defendant  
2 during the visitation, are not liable for any civil damages resulting from  
3 injury to the defendant, or for civil damages associated with the  
4 visitation which are caused by the defendant, except for willful or  
5 grossly negligent acts intended to, or reasonably expected to result in,  
6 that injury or damage.

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

9 (i) In addition to any other fine, fee, or other charge imposed  
10 pursuant to law, the court shall assess a person convicted of a  
11 violation of the provisions of this section a surcharge of \$100, of  
12 which amount \$50 shall be payable to the municipality in which the  
13 conviction was obtained and \$50 shall be payable to the Treasurer of  
14 the State of New Jersey for deposit into the General Fund.<sup>1</sup>

15 (cf: P.L.2003, c.315, s.2)

16

17 <sup>1</sup>[2.] 3. <sup>1</sup> (New section) In order to promote the uniform  
18 enforcement of R.S.39:4-50 and section 2 of P.L.1966, c.142 (C.39:4-  
19 50.2), the Attorney General shall promulgate guidelines concerning the  
20 prosecution of such violations. The guidelines shall be disseminated  
21 to county and municipal prosecutors within 120 days of the effective  
22 date of this act.

23

24 <sup>1</sup>[3.] 4.<sup>1</sup> This act shall take effect immediately.