

SENATE, No. 3579

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 14, 2019

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.
District 13 (Monmouth)

Co-Sponsored by:

Senator Corrado

SYNOPSIS

Extends State's implied consent law to urine samples and drug recognition expert evaluations when accident results in death or serious injury.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2019)

1 AN ACT concerning implied consent and amending P.L.1966, c.142.

2

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

5

6 1. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to
7 read as follows:

8 2. (a) Any person who operates a motor vehicle on any public
9 road, street, or highway or quasi-public area in this State shall be
10 deemed to have given **[his]** consent to the taking of samples of
11 **[his]** the person's breath for the purpose of making chemical tests
12 to determine the content of alcohol in **[his]** the person's blood and,
13 if the operator of a motor vehicle has been involved in an accident
14 resulting in death or serious bodily injury as defined in
15 N.J.S.2C:11-1, the operator is deemed to have given consent to the
16 taking of samples of the operator's urine and to submitting to
17 evaluations by a certified drug recognition expert; provided,
18 however, that the taking of samples or conducting of evaluations by
19 a drug recognition expert is made in accordance with the provisions
20 of this act and at the request of a police officer who has reasonable
21 grounds to believe that [such] the person has been operating a
22 motor vehicle in violation of the provisions of R.S.39:4-50 or
23 section 1 of P.L.1992, c.189 (C.39:4-50.14).

24 (b) A record of the taking of any **[such]** sample, disclosing the
25 date and time **[thereof]** it was taken, as well as the result of any
26 chemical test, shall be made and a copy **[thereof]** of the record,
27 upon **[his]** request, shall be furnished or made available to the
28 person **[so]** tested.

29 (c) In addition to the samples taken and tests made at the
30 direction of a police officer **[hereunder]** pursuant to this section,
31 the person tested shall be permitted to have **[such]** samples taken
32 and chemical tests of **[his]** the person's breath, urine, or blood
33 made by a person or physician **[of his own selection]** the person
34 selects.

35 (d) The police officer shall inform the person tested of **[his]** the
36 person's rights under subsections (b) and (c) of this section.

37 (e) **[No]** A chemical test, as provided in this section, or
38 specimen necessary thereto **[, may]** shall not be made or taken
39 forcibly and against physical resistance **[thereto]** by the defendant.
40 The police officer shall, however, inform the person arrested of the
41 consequences of refusing to submit to **[such]** the test in accordance
42 with section 2 of this amendatory and supplementary act. A
43 standard statement, prepared by the chief administrator, shall be
44 read by the police officer to the person under arrest.

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

Matter underlined thus is new matter.

1 (f) As used in this section, a certified drug recognition expert is
2 a law enforcement officer who is specially trained to identify
3 drivers who are impaired by narcotic, hallucinogenic, or habit-
4 producing drugs other than, or in addition to, alcohol.

5 (cf: P.L.2007, c.267, s.1)

6
7 2. This act shall take effect immediately.

8
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10 STATEMENT

11
12 This bill expands the State's implied consent statute to urine
13 samples and evaluations by certified drug recognition experts when
14 the operator of a motor vehicle has been involved in an accident
15 resulting in death or serious bodily injury.

16 Currently, suspected drunk drivers are deemed to have given
17 their consent to taking a breathalyzer test to determine their blood
18 alcohol content. A person who refuses to take a breathalyzer test is
19 charged with a separate offense and is subject to a license
20 suspension of between seven months and one year for a first
21 offense; two years for a second offense; and 10 years for a third or
22 subsequent offense. The person also is subject to a fine of not less
23 than \$300 or more than \$500 for a first offense; a fine of not less
24 than \$500 or more than \$1,000 for a second offense; and a fine of
25 \$1,000 for a third or subsequent offense. Additionally, the person is
26 subject to ignition interlock requirements.

27 Under the provisions of this bill, a driver who has been involved
28 in an accident resulting in death or serious bodily injury is deemed
29 to have given consent to a urine test to determine the content of
30 alcohol and narcotic, hallucinogenic, or habit-producing drugs in
31 the person's urine. The driver also is deemed to have given consent
32 to submitting to evaluations by a certified drug recognition expert to
33 determine if the driver is impaired by drugs. The bill defines a
34 certified drug recognition expert as a law enforcement officer who
35 is specially trained to identify drivers who are impaired by narcotic,
36 hallucinogenic, or habit-producing drugs other than, or in addition
37 to, alcohol.

38 A person who refuses to consent to urine tests or drug
39 recognition evaluations as required by the bill is subject to the
40 penalties for refusing to give consent to a breathalyzer test.