

SENATE, No. 4134

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 12, 2021

Sponsored by:

Senator KRISTIN M. CORRADO

District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Requires driver to submit to evaluation by drug recognition expert when involved in motor vehicle accident resulting in death.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning motor vehicle accidents resulting in death and
2 amending P.L.1966, c.142 and P.L.1981, c.512.

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

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

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

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

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

34 (d) The police officer shall inform the person tested of his rights
35 under subsections (b) and (c) of this section.

36 (e) No chemical test, as provided in this section, or specimen
37 necessary thereto, may be made or taken forcibly and against
38 physical resistance thereto by the defendant. The police officer
39 shall, however, inform the person arrested of the consequences of
40 refusing to submit to such test in accordance with section 2 of this
41 amendatory and supplementary act. A standard statement, prepared
42 by the chief administrator, shall be read by the police officer to the
43 person under arrest.

44 (f) As used in this section, a certified drug recognition expert is
45 a law enforcement officer who is specially trained to identify

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 drivers who are impaired by narcotic, hallucinogenic, or habit-
2 producing drugs other than, or in addition to, alcohol.

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

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

7 2. a. The municipal court shall order any person who, after
8 being arrested for a violation of R.S.39:4-50 or section 1 of
9 P.L.1992, c.189 (C.39:4-50.14) or after being involved in a motor
10 vehicle accident resulting in the death of another person, refuses to
11 submit, upon request, to a test or evaluation provided for in section
12 2 of P.L.1966, c.142 (C.39:4-50.2):

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

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

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

40 The municipal court shall determine by a preponderance of the
41 evidence whether the arresting officer had probable cause to believe
42 that the person had been driving or was in actual physical control of
43 a motor vehicle on the public highways or quasi-public areas of this
44 State while the person was under the influence of intoxicating
45 liquor or a narcotic, hallucinogenic, or habit-producing drug, or
46 marijuana or cannabis item as defined in section 3 of P.L.2021, c.16
47 (C.24:6I-33) or when an accident resulting in death occurred;
48 whether the person was placed under arrest, if appropriate, and

1 whether he refused to submit to the test or evaluation upon request
2 of the officer; and if these elements of the violation are not
3 established, no conviction shall issue. In addition to any other
4 requirements provided by law, a person whose operator's license is
5 revoked for refusing to submit to a test or evaluation shall be
6 referred to an Intoxicated Driver Resource Center established by
7 subsection (f) of R.S.39:4-50 and shall satisfy the same
8 requirements of the center for refusal to submit to a test as provided
9 for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with
10 a first, second, third or subsequent offense under this section that
11 must be satisfied by a person convicted of a commensurate violation
12 of this section, or be subject to the same penalties as such a person
13 for failure to do so. For a first offense, the revocation may be
14 concurrent with or consecutive to any revocation imposed for a
15 conviction under the provisions of R.S.39:4-50 arising out of the
16 same incident. For a second or subsequent offense, the revocation
17 shall be consecutive to any revocation imposed for a conviction
18 under the provisions of R.S.39:4-50. In addition to issuing a
19 revocation, the municipal court shall fine a person convicted under
20 this section, a fine of not less than \$300 or more than \$500 for a
21 first offense; a fine of not less than \$500 or more than \$1,000 for a
22 second offense; and a fine of \$1,000 for a third or subsequent
23 offense.

24 b. (Deleted by amendment, P.L.2019, c.248)
25 (cf: P.L.2021, c.16, s.82)
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27 3. This act shall take effect on the first day of the fourth month
28 following enactment.
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31 STATEMENT

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33 This bill expands the implied consent law to include evaluations
34 by a drug recognition expert when the operator of a motor vehicle is
35 involved in an accident resulting in death and requires that an
36 operator of a motor vehicle who has been involved in an accident
37 resulting in death submit to an evaluation by a certified drug
38 recognition expert.

39 Under current law, any person who operates a motor vehicle on a
40 public road in this State is deemed to have given consent to a breath
41 test for the purpose of determining the person's blood alcohol
42 content. The provisions of this bill extend this implied consent law
43 to include an evaluation by a certified drug recognition expert when
44 the operator of a motor vehicle is involved in an accident resulting
45 in death. The bill requires that a person submit to an evaluation by
46 a certified drug recognition expert when the person is involved in a
47 motor vehicle accident resulting in death in order to determine if the
48 person was driving under the influence of drugs.

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1 The bill defines a certified drug recognition expert as a law
2 enforcement officer who is specially trained to identify drivers who
3 are impaired by narcotic, hallucinogenic, or habit-producing drugs
4 other than, or in addition to, alcohol.

5 Finally, a person who refuses to consent to the evaluation would
6 be subject to the same penalties as a person who is convicted of
7 refusing a breath test in relation to a drunk driving charge under
8 R.S.39:4-50.