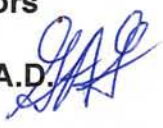

GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

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DIRECTIVE #25-19

**To: Assignment Judges
Trial Court Administrators**

From: Hon. Glenn A. Grant, J.A.D. 

**Subj: Implementation of New DWI Law (L. 2019, c. 248) – Includes Expanded
Use of Ignition Interlock Devices for First-Time Offenders**

Date: December 4, 2019

This Directive provides guidance to the courts on implementation of L. 2019, c. 248, the new DWI law that went into effect on December 1, 2019. The law will expire on January 1, 2024 unless additional legislation is passed extending the pilot or making it permanent. A copy of the codification of L. 2019, c. 248 is attached.

The new law amends various provisions concerning the offenses of driving while intoxicated and refusal to submit to a chemical test (N.J.S.A. 39:4-50 et seq.). This includes significantly expanding the use of ignition interlock devices¹, particularly for most first-time offenders (N.J.S.A. 39:4-50.17), while reducing the time period of most license forfeitures. The penalties contained in the new law apply only to DWI and refusal charges filed on and after December 1, 2019. Thus, defendants charged with one of the enumerated offenses prior to that effective date and subsequently convicted are not subject to the provisions of this new law.

In addition to expanding the use of the ignition interlock device for most first-time offenders and reducing most periods of license forfeiture, the new law establishes different penalties for first-time offenders based on whether the person was convicted of operating a motor vehicle while under the influence of a drug (narcotic, hallucinogenic or habit-producing drug), as opposed to being under the influence of alcohol. Under previous statutory provisions, the penalties were the same. However, under the new law, first-time offenders found guilty of being under the influence of drugs are not subject to the ignition interlock requirements, but

¹ An ignition interlock device is a blood alcohol equivalence-measuring device that will prevent a motor vehicle from starting if the operator's blood alcohol concentration exceeds a predetermined level when the operator blows into the device.

instead receive a longer period of license forfeiture. Additionally, subsection (g) of N.J.S.A. 39:4-50 has been deleted. Thus, no defendant may be newly charged with the specific charge of driving while intoxicated in a school zone on or after December 1, 2019.

Certain provisions in the new law will necessitate changes to court processes. These changes are covered below.

Procedural Changes – At Sentencing

General

As stated previously, the new sentencing provisions apply only to defendants charged with a DWI or refusal on or after December 1, 2019. Defendants charged with DWI or refusal prior to that date are subject to the sentencing provisions in place at the time the defendant was charged, consistent with the statute.

Certain First Time Offenders

Under the new law, the court shall order certain first-time offenders found guilty of DWI or refusal 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 the person owns, leases, or principally operates. Discussions between representatives from the Judiciary and the Motor Vehicle Commission have focused on several issues, including whether a first-time offender found guilty of being under the influence of alcohol, who comes to court with an ignition interlock device pre-installed, is to have his or her license forfeited. Given the significance of this issue, it is worth raising here.

Pursuant to N.J.S.A. 39:4-50.18(a), the court is required to notify the Motor Vehicle Commission whenever a person has been ordered to install an ignition interlock device. This is done through the Judiciary's electronic interface (ATS) with the Motor Vehicle Commission. The court has no further statutory obligation to monitor whether a defendant has actually installed an ignition interlock device or if an approved device was installed by a licensed vendor.

Rather, as part of its regulatory authority, the Motor Vehicle Commission is responsible for certifying (or causing to be certified) all approved ignition interlock devices (see N.J.S.A. 39:4-50.20). The Commission is similarly responsible for licensing the ignition interlock installers. As part of its restoration process, the Motor Vehicle Commission confirms that an approved ignition interlock device has been installed on a vehicle and that it was installed by a licensed installer. Importantly, this verification only occurs as part of the Commission's license restoration process.

Additionally, the Motor Vehicle Commission, pursuant to statute, is required to imprint a notation on the defendant's new driver's license stating that the person shall not operate a

motor vehicle unless it is equipped with an ignition interlock device (N.J.S.A. 39:4-50.18(b)). This imprint on the new license constitutes passive enforcement of N.J.S.A. 39:4-50.17 et seq., and is designed to alert a law enforcement officer that the driver is only permitted to operate a motor vehicle equipped with an approved ignition interlock device. Moreover, according to the Motor Vehicle Commission, this new license is only issued as part of the license restoration process, which occurs following a license forfeiture for DWI or refusal.

Therefore, based on discussions with the Motor Vehicle Commission, on the recommendation of the Conference of Municipal Court Presiding Judges, and on the sequence of events and responsibilities articulated in the statute and set forth above, the court at sentencing is to forfeit the driving privileges of all defendants found guilty under this statute, including those first-time offenders who come to court with an ignition interlock device already installed. Doing otherwise would eliminate the need for offenders convicted under this statute to report to the Motor Vehicle Commission to initiate their license restoration, which is the trigger that sets several of the above statutory requirements in motion. Moreover, this approach avoids the unintended consequence that some convicted DWI offenders could circumvent the statutory requirements based on the court's failure to forfeit the defendant's driving privileges at the time of sentencing.

Ignition Interlock Information and Notification Form – New Form

Consistent with past practice, the court is to advise defendants ordered to install an ignition interlock device that they are not permitted to drive any vehicle other than one in which an ignition interlock device has been installed. Pursuant to the new statutory requirements, the defendant, as part of this process, is to provide the court with "information identifying the motor vehicle on which the ignition interlock device is to be installed." N.J.S.A. 39:4-50.17(c).

To satisfy this requirement, I am promulgating the attached "*Ignition Interlock Information and Notification Form*" (CN: 12526). Effective immediately, this new form is to be completed at sentencing by all defendants charged with DWI or refusal on or after December 1, 2019. This form is not to be completed by defendants who were charged with these offenses prior to December 1, 2019. The court is to keep a copy of this completed form in the case file.

Defendants Who Do Not Own, Lease or Operate a Motor Vehicle

Under N.J.S.A. 39:4-50.17(c), the court shall not order a defendant found guilty under this new law to install an ignition interlock device if the defendant attests that he or she does not own, lease or have the ability to operate a motor vehicle. The court is to instead sentence such defendant according to the penalty provisions specified in N.J.S.A. 39:4-50.17(c).

The aforementioned Ignition Interlock Information and Notification Form includes a section at the bottom where the defendant is to place this attestation in writing. Only defendants attesting to not owning, leasing or having the ability to drive a motor vehicle are to complete that section of the form.

Additionally, an offender making this attestation shall immediately notify the court of the purchase, lease, or access to operation of a motor vehicle if this occurs during the period of license forfeiture. In those situations, the court shall schedule the defendant for court and order the defendant to install an ignition interlock device in that vehicle, as required in N.J.S.A. 39:4-50.17(c).

Order and Certification – Intoxicated Driving and Related Offenses Form – Revised

The “*Order and Certification – Intoxicated Driving and Related Offenses*” form (CN: 10111), which the court is to complete when sentencing defendants convicted of DWI and refusal, has been modified. A copy is attached. The most significant changes to the form include removing the reference to “school zone” violations and providing a new check box for the judge to order a license forfeiture for an indeterminate time period for certain first-time offenders.

Additionally, based on procedures set forth later in this Directive, judges are to instruct defendants convicted of DWI or refusal to provide a copy of this form to the ignition interlock installer hired by the defendant. This provides notice to the installer as to which municipal court sentenced the defendant and the length of time the device should remain on the vehicle.

This revised form is available for immediate use and must be used when sentencing defendants charged with DWI or refusal on or after December 1, 2019. For defendants charged with DWI or refusal prior to that date, courts have the option to use either the newly revised form or the previous version (until supplies are exhausted).

Notification of Enhanced Penalties Form – Revised

Pursuant to the longstanding provisions of N.J.S.A. 39:4-50(c), the court is required to advise the defendant orally and in writing of future penalties should the defendant be convicted of a subsequent DWI or should the defendant be found guilty of operating a motor vehicle during the period of license forfeiture when the forfeiture was based on a DWI conviction.

To satisfy this statutory responsibility, the “*Notification of Enhanced Penalties for Subsequent DWI or Driving on the Revoked List Convictions*” form (CN: 10112) has been modified to include the new penalty provisions. This form, copy attached, is available for immediate use and supersedes all previous versions. Thus, it is to be provided to all defendants found guilty of DWI or refusal, including those charged prior to December 1, 2019.

Procedural Changes – Post Conviction

N.J.S.A. 39:4-50.18(c) provides that an offender is eligible to have the ignition interlock device removed from his or her vehicle on the date the person completes the required

installation period unless the offender has failed to comply with one or both conditions specified in the statute. If the installer determines that the offender has satisfied both conditions, the installer shall provide the offender with the necessary certification to take to the Motor Vehicle Commission. However, if the vendor contends that the offender has failed to satisfy either condition, the vendor is to send notice of this alleged non-compliance to both the Motor Vehicle Commission and the relevant municipal court. As part of such notification, the installer is expected to provide the specific reasons for the alleged non-compliance.

If the court receives such a notification from the vendor, the court, pursuant to N.J.S.A. 39:4-50.18(d), shall determine whether to extend the ignition interlock period for up to 90 additional days or else provide notice to the Motor Vehicle Commission that the offender has satisfied the ignition interlock requirements. To make this determination, the court should schedule a hearing as soon as practicable to provide the defendant the opportunity to refute the non-compliance allegation. The court shall issue a written order confirming its decision. The Municipal Court Administrator shall ensure that such order is promptly sent to the Motor Vehicle Commission.

Technological Changes

To comport with the requirements of the new law, specific changes have been made to the ATS and MACS computer systems. Those changes and instructions for use are detailed in the system release notes that were promulgated separately by this office.

Questions concerning this Directive should be directed to Assistant Director Steven A. Somogyi (Municipal Court Services Division) via email at steven.somogyi@njcourts.gov or by phone at 609-815-2900 ext. 54850.

Attachments

- (1) Codification of L. 2019, c. 248
- (2) Ignition Interlock Information and Notification Form (CN: 12526)
- (3) Order and Certification – Intoxicated Driving and Related Offenses (CN: 10111)
- (4) Notification of Penalties for Subsequent DWI or Driving on the Revoked List Convictions (CN: 10112)

cc: Chief Justice Stuart Rabner
Municipal Court Presiding Judges
Municipal Court Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Julie A. Higgs, Chief
Rhonda Crimi, Chief
Municipal Division Managers and Assistants
Municipal Court Directors & Administrators

N.J. Stat. § 39:4-50.16a

This section is current through New Jersey 218th Second Annual Session, L. 2019, c. 267, and J.R. 22

LexisNexis® New Jersey Annotated Statutes > Title 39. Motor Vehicles and Traffic Regulation (Subts. 1 — 2) > Subtitle 1. Motor Vehicles Generally; Traffic Laws (Chs. 1 — 5H) > Chapter 4. Motor Vehicle Traffic Regulation (Arts. 1 — 26) > Article 9. Operation of Motor Vehicles; Driving Under the Influence, etc. (§§ 39:4-48 — 39:4-72)

§ 39:4-50.16a. Findings, declarations relative to certain drunk drivers [Expires Jan. 1, 2024]

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.

History

L. [2019, c. 248](#), § 1, eff. Dec. 1, 2019.

End of Document

N.J. Stat. § 39:4-50

This section is current through New Jersey 218th Second Annual Session, L. 2019, c. 267, and J.R. 22

LexisNexis® New Jersey Annotated Statutes > Title 39. Motor Vehicles and Traffic Regulation (Subts. 1 — 2) > Subtitle 1. Motor Vehicles Generally; Traffic Laws (Chs. 1 — 5H) > Chapter 4. Motor Vehicle Traffic Regulation (Arts. 1 — 26) > Article 9. Operation of Motor Vehicles; Driving Under the Influence, etc. (§§ 39:4-48 — 39:4-72)

Notice

 This section has more than one version with varying effective dates.

§ 39:4-50. Driving while intoxicated [Expires Jan. 1, 2024]

(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 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. In addition, the court shall order the person 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 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 a narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of a 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;

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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 a 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 forfeit 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)(Deleted by amendment, [P.L.2019, c.248](#))

(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 terms 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, or more than 90 days, and shall 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 upon conviction.

After the expiration of the license forfeiture period, 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 the right to operate a motor vehicle over the highways of this State for 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 \(C.39:4-50.16 et al.\)](#).

As used in this section, the phrase "narcotic, hallucinogenic or habit-producing drug" includes an inhalant or other substance containing a chemical capable of releasing any toxic vapors or fumes for the purpose of inducing a condition of intoxication, such as any glue, cement or any other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or any other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

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

A conviction 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.](#)),

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shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than 0.08%.

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

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

(b)A person convicted under this section must satisfy the screening, evaluation, referral, program and fee requirements of the Division of Mental Health and Addiction Services' Intoxicated Driving Program Unit, and of the Intoxicated Driver Resource Centers and a program of alcohol and drug education and highway safety, as prescribed by the chief administrator. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two-day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with the Rules Governing the Courts of the State of New Jersey, or R.S. [39:5-22](#). Upon sentencing, the court shall forward to the Division of Mental Health and Addiction Services' Intoxicated Driving Program Unit a copy of a person's conviction record. A fee of \$100 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of P.L.1983, c.531 ([C.26:2B-32](#)) to support the Intoxicated Driving Program Unit.

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

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

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

(f) The counties, in cooperation with the Division of Mental Health and Addiction Services and the commission, but subject to the approval of the Division of Mental Health and Addiction Services, shall designate and establish on a county or regional basis Intoxicated Driver Resource Centers. These centers shall have the capability of serving as community treatment referral centers and as court monitors of a person's compliance with the ordered treatment, service alternative or community service. All centers established pursuant to this subsection shall be administered by a counselor certified by the Addiction Professionals Certification Board of New Jersey or other professional with a minimum of five years' experience in the treatment of alcoholism. All centers shall be required to develop individualized treatment plans for all persons attending the centers; provided that the duration of any ordered treatment or referral shall not exceed one year. It shall be the center's responsibility to establish networks with the community alcohol and drug education, treatment and rehabilitation resources and to receive monthly reports from the referral agencies regarding a person's participation and compliance with the program. Nothing in this subsection shall bar these centers from developing their own education and treatment programs; provided that they are approved by the Division of Mental Health and Addiction Services.

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

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Intoxicated Driving Program Unit. Upon attendance at an Intoxicated Driver Resource Center, a person shall be required to pay a per diem fee of \$75 for the first offender program or a per diem fee of \$100 for the second offender program, as appropriate. Any increases in the per diem fees after the first full year shall be determined pursuant to rules and regulations adopted by the Commissioner of Health in consultation with the Governor's Council on Alcoholism and Drug Abuse pursuant to the "Administrative Procedure Act," P.L.1968, c.410 ([C.52:14B-1](#) et seq.).

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

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

(g) (Deleted by amendment, [P.L.2019, c.248](#))

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

- (1) a trauma center, critical care center or acute care hospital having basic emergency services, which receives victims of motor vehicle accidents for the purpose of observing appropriate victims of drunk drivers and victims who are, themselves, drunk drivers;
- (2) a facility which cares for advanced alcoholics or drug abusers, to observe persons in the advanced stages of alcoholism or drug abuse; or
- (3) if approved by a county medical examiner, the office of the county medical examiner or a public morgue to observe appropriate victims of vehicle accidents involving drunk drivers.

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

If at any time before or during a visitation the facility's supervisory personnel and the probation officer determine that the visitation may be or is traumatic or otherwise inappropriate for that defendant, the visitation shall be terminated without prejudice to the defendant. The program may include a personal conference after the visitation, which may

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include the sentencing judge or the judge who coordinates the program for the court, the defendant, defendant's counsel, and, if available, the defendant's parents to discuss the visitation and its effect on the defendant's future conduct. If a personal conference is not practicable because of the defendant's absence from the jurisdiction, conflicting time schedules, or any other reason, the court shall require the defendant to submit a written report concerning the visitation experience and its impact on the defendant. The county, a court, any facility visited pursuant to the program, any agents, employees, or independent contractors of the court, county, or facility visited pursuant to the program, and any person supervising a defendant during the visitation, are not liable for any civil damages resulting from injury to the defendant, or for civil damages associated with the visitation which are caused by the defendant, except for willful or grossly negligent acts intended to, or reasonably expected to result in, that injury or damage.

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

(i) In addition to any other fine, fee, or other charge imposed pursuant to law, the court shall assess a person convicted of a violation of the provisions of this section a surcharge of \$125, of which amount \$50 shall be payable to the municipality in which the conviction was obtained, \$50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund, and \$25 which shall be payable as follows: in a matter where the summons was issued by a municipality's law enforcement agency, to that municipality to be used for the cost of equipping police vehicles with mobile video recording systems pursuant to the provisions of section 1 of [P.L.2014, c.54 \(C.40A:14-118.1\)](#); in a matter where the summons was issued by a county's law enforcement agency, to that county; and in a matter where the summons was issued by a State law enforcement agency, to the General Fund.

History

Amended [2019, c. 248](#), § 2, eff. Dec. 1, 2019.

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[N.J. Stat. § 39:4-50.17](#)

This section is current through New Jersey 218th Second Annual Session, L. 2019, c. 267, and J.R. 22

LexisNexis® New Jersey Annotated Statutes > Title 39. Motor Vehicles and Traffic Regulation (Subts. 1 — 2) > Subtitle 1. Motor Vehicles Generally; Traffic Laws (Chs. 1 — 5H) > Chapter 4. Motor Vehicle Traffic Regulation (Arts. 1 — 26) > Article 9. Operation of Motor Vehicles; Driving Under the Influence, etc. (§§ 39:4-48 — 39:4-72)

Notice

 This section has more than one version with varying effective dates.

§ 39:4-50.17. Sentencing drunk driving offenders; use of ignition interlock device required [Expires Jan. 1, 2024]

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 shall order, in addition to any other penalty imposed by that section, 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 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 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 forfeiture imposed under those sections. In addition to installation during the period of license suspension, the device shall remain installed for not less than nine months or more than 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 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 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 forfeiture, the device shall remain installed for not less than two years or more than four years,

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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 forfeiture has been served.

c.The court shall require that, for the duration of its order, an offender shall not drive 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 [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 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.

History

L. [1999, c. 417](#), § 2 (eff. date amended [2000, c. 83](#), § 4); amended [2009, c. 201](#), § 2, eff. Jan. 14, 2010; [2019, c. 248](#), § 4, eff. Dec. 1, 2019.

N.J. Stat. § 39:4-50.17b

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§ 39:4-50.17b. Semiannual summary report [Expires Jan. 1, 2024]

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.

History

L. [2019, c. 248](#), § 6, eff. Dec. 1, 2019.

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[N.J. Stat. § 39:4-50.4a](#)

This section is current through New Jersey 218th Second Annual Session, L. 2019, c. 267, and J.R. 22

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Notice

 This section has more than one version with varying effective dates.

§ 39:4-50.4a. Refusal to submit to test; penalties [Expires Jan. 1, 2024]

a. The municipal court shall order any person who, after being arrested for a violation of R.S.39:4-50 or section 1 of [P.L.1992, c.189 \(C.39:4-50.14\)](#), refuses to submit, upon request, to a test provided for in section 2 of P.L.1966, c.142 ([C.39:4-50.2](#)):

(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, 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, 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

N.J. Stat. § 39:4-50.4a

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, 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.

b.(Deleted by amendment, [P.L.2019, c.248](#)).

History

L. 1981, c. 512, § 2; amended 1981, c. 537, § 2; [1994, c. 184](#), § 2; [1997, c. 277](#), § 2; [1999, c. 185](#), § 5, eff. Dec. 1, 1999; [2004, c. 8](#), § 1, eff. Apr. 26, 2004; [2007, c. 267](#), § 2, eff. Mar. 1, 2008; [2009, c. 201](#), § 5, eff. Jan. 14, 2010; [2019, c. 248](#), § 3, eff. Dec. 1, 2019.

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New Jersey Judiciary

Municipal Court

Ignition Interlock Information and Notification Form



Instructions: Please complete the following information in accordance with the provisions set forth in N.J.S.A. 39:4-50.17.c

Your Name _____

Date of Birth _____

Sex _____

Eye Color _____

Complaint Number (s) _____

Address: Street _____

City _____

State _____

Zip Code _____

Telephone Number _____

Email Address _____

- ☐ Motor Vehicle on which the ignition interlock is to be installed:

License Plate Number _____ State _____

Make _____ Model _____

Year _____ Color _____

OR

- ☐ I attest that I do not own, lease or operate a motor vehicle. A violation of this provision shall constitute perjury pursuant to N.J.S.A. 2C:28-1, a crime of the third degree punishable by incarceration between three (3) to five (5) years and a fine up to \$15,000.00. Furthermore, I shall immediately notify the court of the purchase, lease, or access to operation of a motor vehicle and will install an ignition interlock device on that vehicle.

I, _____ (defendant) certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date _____

Signature of Defendant _____



ORDER AND CERTIFICATION Intoxicated Driving and Related Offenses



State of New Jersey v.	Municipal Court	County	Court Code
	Court Address	City	Zip
Defendant Name	Summons Number	Court Phone Number	

Defendant Information

Driver's License Number	Lic. State	Date of Birth	Sex	Eye Color / Code	☐ Drugs ☐ Alcohol
Address		City	State	Zip	
Phone Number	Violation Date and Time			BAC or Blood Test Reading	

IT IS ORDERED that on this _____ day of _____, 20____, the following penalties are imposed on the defendant for a violation of N.J.S.A. _____ committed in a ☐ Motor Vehicle or ☐ Commercial Motor Vehicle or ☐ Commercial Motor Vehicle Transporting Hazardous Materials or in a ☐ Boat / Vessel.

Monetary Penalties

IDRC / Imprisonment Inpatient Rehab / CS

License Forfeiture / Other Penalties

1st Offense	* Fine \$ SNSF \$ Costs \$ DDE Fund \$ VCCO \$ Surcharge \$	IDRC ☐ 12 Hrs. ☐ 48 Hrs. ☐ Other _____ Jail Time _____ Days Served in ☐ County Jail ☐ Workhouse ☐ Inpatient Rehabilitation ☐ IDRC	Basic DL _____ Months ☐ Basic DL Indeterminate Forfeiture CDL _____ Years Ignition Interlock _____ Months ☐ Supervised Visitation
2nd Offense	* Fine \$ SNSF \$ Costs \$ DDE Fund \$ VCCO \$ Surcharge \$	☒ IDRC Referral Community Service _____ Days Jail Time _____ Days Served in ☐ County Jail ☐ Workhouse ☐ Inpatient Rehabilitation ☐ IDRC	Basic DL _____ Years CDL _____ Years or ☐ Life ☐ Supervised Visitation Ignition Interlock _____ Years
3rd and Subsequent Offenses	* Fine \$ SNSF \$ Costs \$ DDE Fund \$ VCCO \$ Surcharge \$	☒ IDRC Referral Jail Time <u>180</u> days, of which _____ days may be served in Inpatient Rehabilitation, remainder served in ☐ County Jail ☐ Workhouse ☐ IDRC	Basic DL _____ Years CDL _____ Years or ☐ Life ☐ Supervised Visitation Ignition Interlock _____ Years
Boat / Vessel ☐ 1st ☐ 2nd ☐ 3rd	* Fine \$ Costs \$ VCCO \$	☒ IDRC Referral Community Service _____ Days Jail Time _____ Days Served in ☐ County Jail ☐ Workhouse ☐ Inpatient Rehabilitation ☐ IDRC	Basic DL _____ Boat _____ Moped _____ ☒ Complete boat safety course.
Refusal ☐ 1st ☐ 2nd ☐ 3rd	* Fine \$ Costs \$ (No DDE Fund \$ for violations of N.J.S.A. 12:7-57 or N.J.S.A. 39:3-10.24)	IDRC ☐ 12 Hrs. ☐ 48 Hrs. ☐ Other _____	Basic DL _____ CDL _____ Ignition Interlock _____ Years / Months Additional N.J.S.A. 12:7-57 Penalties: Boating Privileges _____ (Term) and ☒ Complete boat safety course. NOTE: Basic DL and CDL revocation do not apply to convictions under N.J.S.A. 12:7-57.
Underage N.J.S.A. 39:4-50.14	* Fine \$0 Costs \$	☒ IDRC Referral Community Service _____ Days	Basic DL _____ Days

* NOTE: For any violation of Title 39, mandatory assessments under N.J.S.A. 39:5-41(d) et seq. must be added to the statutory fine.

IT IS FURTHER ORDERED that the defendant meet the following additional conditions:

IT IS FURTHER ORDERED that the defendant satisfy the screening, evaluation, referral, program and fee requirements of the Intoxicated Driving Programs Unit and Intoxicated Driver Resource Center. Failure to satisfy those requirements will be reported to the court and will result in a 2 day term of imprisonment in the county jail and an additional period of license suspension until such requirements are satisfied.

Judge's Name (print) _____ Judge's Signature _____

Defendant Certification

I understand the consequences of my failure to meet the requirements of the above-referenced IDRC Program and any other conditions contained in this Order. I certify that the Defendant Information is correct and acknowledge receipt of a copy of this Order.

Defendant's Signature _____ Date _____





New Jersey Judiciary – Municipal Court
**Notification of Penalties for Subsequent DWI
or Driving on the Revoked List Convictions**



Municipal Court of _____

Summons - Complaint Number: _____

County of _____

State of New Jersey

**Notice to Defendant Upon Conviction
of N.J.S.A. 39:4-50(a)**

v. _____

Defendant

Penalties if Convicted Again of DWI

If you are convicted for a second violation of operating or allowing the operation of a motor vehicle while under the influence of alcohol or drugs (DWI) under N.J.S.A. 39:4-50(a), you shall be subject to the following penalties: 1) a fine of not less than \$500 nor more than \$1,000; **and** 2) you will perform community service for a period of 30 days; **and** 3) you shall be sentenced to imprisonment for a term of not less than 48 consecutive hours to 90 days, which shall not be suspended or served on probation; **and** 4) you shall forfeit the right to operate a motor vehicle for a period of not less than one year or more than two years upon conviction; **and** 5) you will be assessed at least \$325 in surcharges and assessments; **and** 6) you must complete the counselling requirements of the Intoxicated Driver Program.

If you are convicted for a third or subsequent violation, you shall be subject to the following penalties: 1) a fine of \$1,000; **and** 2) you 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** 3) your driver's license shall be forfeited for eight years; **and** 4) you will be assessed at least \$325 in surcharges and assessments; **and** 5) you must complete the counselling requirements of the Intoxicated Driver Program.

Further, if you are convicted of a second, third or subsequent violation the judge must order the installation of an ignition interlock device during the period of license forfeiture, as well as for a period ranging from two to four years after the expiration of the license forfeiture and your license is returned to you by the Motor Vehicle Commission. A list of State approved ignition interlock manufacturers and State approved installers can be found on the Motor Vehicle Commission's website at <https://www.state.nj.us/mvc/license/interlock-manufacturers.htm>.

Penalties if Convicted of Driving on the Revoked List

As part of your sentence for DWI, your right to operate a motor vehicle has been suspended. If you are found guilty of operating a motor vehicle during your suspension period, you will be subject to penalties under either N.J.S.A. 39:3-40 (traffic offense) or N.J.S.A. 2C:40-26 (4th degree crime), depending on the circumstances surrounding your violation. If you are found guilty of driving while suspended under N.J.S.A. 39:3-40, your penalties will include: 1) a fine of not less than \$1,000, nor more than \$1,500; **and** 2) the suspension of your driving privileges for a period of up to 30 months; **and** 3) a term of imprisonment between 10 and 100 days; **and** 4) revocation of your vehicle registration. If you are found guilty of driving while suspended under N.J.S.A. 2C:40-26, you will be subject to a term of mandatory imprisonment up to 18 months, of which at least 6 months shall be served without parole. Additional penalties may also be imposed for each violation based on the exact nature of your charges.

In addition to this written notice, I have informed you of these consequences orally in open court.

Date: _____

Signature of Judge

ACKNOWLEDGEMENT OF RECEIPT

I, _____ (defendant) have received this written notice of the penalties for subsequent convictions of DWI and driving while on the revoked list. I have also been informed of these consequences orally by the judge in open court.

Date: _____

Signature of Defendant



Please notify the court if you have a disability and will require assistance.

