

***Law Offices of
JOHN MENZEL, J.D.***

***PENALTIES DEFENDANTS FACE
FOR DRUNK DRIVING AND BREATH TEST REFUSAL***

Generally. Although not a crime in New Jersey, drunk driving and breath test refusal can lead to serious penalties, including:

- Court imposed assessments of more than \$2,300
- Administrative assessments of more than \$5,500
- Insurance premium increases of several hundred percent
- Jail for six months
- Intoxicated Driver Resource Center [“IDRC”] attendance for 48 hours
- Further education, evaluation, and treatment on the IDRC’s recommendation
- Revocation of driving and vehicle registration privileges for up to 20 years
- Alcohol ignition interlock in every vehicle you own, lease, or customarily operate or extension of your driving privilege revocation for up to three years beginning when the driving privilege revocation ends
- Forfeiture of motor vehicles registered in your name either individually or jointly with someone else.

Aggravating Factors. These are circumstances that tend to make court believe that a defendant deserves greater punishment than the court would ordinarily impose:

- An accident and its victims input
- High breathalyzer readings (say 0.15 or more, depending on the court)
- Bad driving record
- Offenses soon after restoration of driving privileges
- Poor relations with the police officers involved
- Unusual or dangerous driving leading to the police stop

Mitigating Factors. While the court can impose no less than minimum penalties required by law, it may consider mitigating factors. These are circumstances which indicate that the defendant deserves less punishment:

- Low breath test results
- Good driving record
- Good relations with the police officers involved
- Otherwise careful or nonexistent driving
- Rehabilitation efforts
- Adverse affect on employment and family

Mandatory Minimum Sentences. Penalties for drunk driving and breath test refusal are very serious. Although not considered "crimes" in New Jersey, those who are convicted of these offenses are punished more severely than most people convicted of crimes. The current statutory

penalties for drunk driving and breath test refusal, listed with the statutory reference authorizing each penalty, follow:

Drunk Driving: First Offense Penalties

Drunk Driving: Second Offense Penalties

Drunk Driving: Third Offense Penalties

Breath Test Refusal: First Offense Penalties

Breath Test Refusal: Second Offense Penalties

Breath Test Refusal: Third Offense Penalties

Underage Operation With Blood Alcohol Content in Excess of 0.01 %

NEW JERSEY DWI INFORMATION

- ❑ *When and How to Plead*
- ❑ *What the State Must Prove to Convict You*
- ❑ *What the State Must Prove to Show a Breathalyzer Reliability*
- ❑ *Documents Drunk Driving Defendants Should See Before Deciding What to Do*
- ❑ *Documents Breath Test Refusal Defendants Should See Before Deciding What to Do*
- ❑ *Additional Trial Preparation: When to Hire an Expert*

DRUNK DRIVING ARREST

- ❑ *Your Constitutional Rights*
- ❑ *Your Statutory Obligations*
- ❑ *Dos and Don'ts When Stopped for Drunk Driving*
- ❑ *Dos and Don'ts When Arrested for Drunk Driving*

COURTS INFORMATION

- ❑ *If You Are Charged with an Offense*
- ❑ *The Steps of Drunk Driving Litigation*

NEW JERSEY LICENSE SUSPENSION LAWS

FREE DWI CASE EVALUATION

ABOUT JOHN MENZEL, J.D.

DISCLAIMER

Drunk Driving: First Offense Penalties

<i>N.J.S.</i>	<i>Type of Penalty</i>	<i>Penalty Amount</i>
<i>Court Imposed Penalties</i>		
39:4-50(a)	Fine	\$ 300- 500
39:4-50(i)	Surcharge	\$ 100
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 100
22A:3-4	Court costs	\$ 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
2C:43-3.1	Victims of Crime Compensation Board penalty	\$ 50
2C:43-3.2	Safe Neighborhood Services Fund surcharge	\$ 75
39:5-39	Physician's fee	\$ 0- 20
39:4-50(a)	Intoxicated Driver Resource Center attendance	12-48 hours
39:4-50(a)	Imprisonment	0-30 days
39:4-50(a)(i)	Driving privilege forfeiture (.08, .09, or under influence of alcohol)	3 months
39:4-50(a)(ii)	Driving privilege forfeiture (.10 or higher or under influence of drugs)	7-12 months
39:4-50.17(a)	Alcohol Ignition Interlock Device	0-12 months
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
	Costs of further education and/or treatment	\$?
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Sentence enhancement on subsequent convictions of <i>N.J.S.</i> 39:4-50, <i>N.J.S.</i> 39:4-50.2, and <i>N.J.S.</i> 39:3-40	
27:5F-37	Disqualified as motorcycle safety instructor for five years	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50(g)(3)	Fine	\$ 300- 500
39:4-50(g)(3)	Imprisonment	0-30 days
39:4-50(g)(3)	Driving privilege forfeiture	5-17 months
<i>Additional Penalty when Child is in Vehicle</i>		
39:4-50.15	Driving privilege forfeiture	6 months
<i>Additional Penalty for Commercial Drivers</i>		
39:3-10.20	Forfeiture of commercial driving privilege	1-3 years to life

Drunk Driving: Second Offense Penalties

N.J.S.	Type of Penalty	Penalty Amount
<i>Court Imposed Penalties</i>		
39:4-50(a)	Fine	\$ 500-1,000
39:4-50(i)	Surcharge	\$ 100
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 100
22A:3-4	Court costs	\$ 0- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
2C:43-3.1	Victims of Crime Compensation Board penalty	\$ 50
2C:43-3.2	Safe Neighborhood Services Fund surcharge	\$ 75
39:5-39	Physician's fee	\$ 0- 20
39:4-50(a)	Imprisonment	2-90 days
39:4-50(a)	Community service	30 days
39:4-50(a)	Forfeiture of driving privileges	2 years
39:4-50.17(a)	Alcohol Ignition Interlock Device	1-3 years
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
	Costs of further education and/or treatment	\$?
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Sentence enhancement on subsequent convictions of <i>N.J.S.</i> 39:4-50, <i>N.J.S.</i> 39:4-50.2, and <i>N.J.S.</i> 39:3-40	
27:5F-37	Disqualified as motorcycle safety instructor for five years	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50(g)(3)	Fine	\$ 500-1,000
39:4-50(g)(3)	Imprisonment	2-90 days
39:4-50(g)(3)	Driving privilege forfeiture	2 years
<i>Additional Penalty when Child is in Vehicle</i>		
39:4-50.15	Driving privilege forfeiture	6 months
<i>Additional Penalty for Commercial Drivers</i>		
39:3-10.20	Forfeiture of commercial driving privilege	life

Drunk Driving: Third Offense Penalties

N.J.S.	Type of Penalty	Penalty Amount
<i>Court Imposed Penalties</i>		
39:4-50(a)	Fine	\$1,000
39:4-50(i)	Surcharge	\$ 100
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 100
22A:3-4	Court costs	\$ 0- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
2C:43-3.1	Victims of Crime Compensation Board penalty	\$ 50
2C:43-3.2	Safe Neighborhood Services Fund surcharge	\$ 75
39:5-39	Physician's fee	\$ 0- 20
39:4-50(a)	Imprisonment	180 days
39:4-50(a)	Forfeiture of driving privileges	10 years
39:4-50.17(a)	Alcohol Ignition Interlock Device	1-3 years
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Sentence enhancement on subsequent convictions of <i>N.J.S.</i> 39:4-50.2 and <i>N.J.S.</i> 39:3-40	
27:5F-37	Disqualified as motorcycle safety instructor for five years	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50(g)(3)	Fine	\$1,000
39:4-50(g)(3)	Driving privilege forfeiture	10 years
<i>Additional Penalty when Child is in Vehicle</i>		
39:4-50.15	Driving privilege forfeiture	6 months
<i>Additional Penalty for Commercial Drivers</i>		
39:3-10.20	Forfeiture of commercial driving privilege	life

Breath Test Refusal: First Offense Penalties

N.J.S.	Type of Penalty	Penalty Amount
<i>Court Imposed Penalties</i>		
39:4-50.4a(a)	Fine	\$ 300- 500
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
22A:3-4	Court costs	\$ 0- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 100
39:4-50.4a	Intoxicated Driver Resource Center	12-48 hours
39:4-50.4a	Revocation of driving privileges	7-12 months
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
	Costs of further education and/or treatment	\$?
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Sentence enhancement on subsequent convictions of <i>N.J.S. 39:4-50.2</i> and <i>N.J.S. 39:3-40</i>	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50.4a(b)	Fine	\$ 300- 500
39:4-50.4a(b)	Driving privilege forfeiture	5-17 months
<i>Additional Penalties for Commercial Drivers</i>		
39:3-10.20	Fine	\$ 250- 500
39:3-10.20	Forfeiture of commercial driving privilege	1-3 years to life

Breath Test Refusal: Second Offense Penalties

N.J.S.	Type of Penalty	Penalty Amount
<i>Court Imposed Penalties</i>		
39:4-50.4a(a)	Fine	\$ 250- 500
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
22A:3-4	Court costs	\$ 0- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 200
39:4-50.4a	Intoxicated Driver Resource Center	12-48 hours
39:4-50.4a	Revocation of driving privileges	2 years
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
	Costs of further education and/or treatment	\$?
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Sentence enhancement on subsequent convictions of <i>N.J.S. 39:4-50.2</i> and <i>N.J.S. 39:3-40</i>	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50.4a(b)	Fine	\$ 250- 500
39:4-50.4a(b)	Driving privilege forfeiture	2 years
<i>Additional Penalties for Commercial Drivers</i>		
39:3-10.20	Fine	\$ 250- 500
39:3-10.20	Forfeiture of commercial driving privilege	life

Breath Test Refusal: Third Offense Penalties

N.J.S.	Type of Penalty	Penalty Amount
<i>Court Imposed Penalties</i>		
39:4-50.4a(a)	Fine	\$ 250- 500
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
22A:3-4	Court costs	\$ 0- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
39:4-50.8	Drunk Driving Enforcement Fund surcharge	\$ 100
39:4-50.4a	Intoxicated Driver Resource Center	12-48 hours
39:4-50.4a	Revocation of driving privileges	10 years
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(b)	Alcohol Education, Rehabilitation, and Enforcement Fund	\$ 100
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
	Costs of further education and/or treatment	\$?
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
17:29A-35.b(2)	Merit Rating Plan Surcharge	\$3,000-4,500
17:29A-35.b(3)	Merit Rating Plan point assessment	\$ 525- 675
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy Insurance premium increases Sentence enhancement on subsequent convictions of <i>N.J.S.</i> 39:4-50.2 and <i>N.J.S.</i> 39:3-40	
39:3-33.5	No particular mark or special organization plates for 10 years	
39:3-33.5a	No vanity plates ever	
39:6A-4.5(b)	No cause of action permitted for recovery of economic or non-economic loss sustained as a result of the accident	
<i>Additional Penalties if Within School Zone</i>		
39:4-50.4a(b)	Fine	\$ 250- 500
39:4-50.4a(b)	Driving privilege forfeiture	10 years
<i>Additional Penalties for Commercial Drivers</i>		
39:3-10.20	Fine	\$ 250- 500
39:3-10.20	Forfeiture of commercial driving privilege	life

Underage Operation With BAC in Excess of 0.01%

<i>N.J.S.</i>	<i>Type of Penalty</i>	<i>Penalty Amount</i>
<i>Court Imposed Penalties</i>		
39:4-203	Fine	\$ 0- 50
39:5-41	Body Armor Replacement Fund	\$ 1
39:5-41	Spinal Cord Research Fund	\$ 2
22A:3-4	Court costs	\$ 3- 30
22A:3-4	Automated Traffic System Fund	\$ 2
22A:3-4	Emergency Medical Technician Training Fund	\$ 0.50
39:4-50.14	Intoxicated Driver Resource Center	12-48 hours
39:4-50.14	Forfeiture of driving privileges	30-90 days
39:4-50.14	Community service	15-30 days
<i>Division of Motor Vehicles</i>		
39:3-10a	Driver License Restoration Fee	\$ 100
<i>Bureau of Alcohol Countermeasures</i>		
39:4-50(f)	Intoxicated Driver Resource Center per diem fees	\$ 150- 200
<i>Other Consequences</i>		
17:29C-7	Cancellation of automobile insurance "of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy"	
	Insurance premium increases	
	Penalties under the provisions of <i>N.J.S.</i> 39:4-50.14 are in addition to penalties under <i>N.J.S.</i> 33-15, <i>N.J.S.</i> 33:1-81, <i>N.J.S.</i> 39:4-50, and any other law	