



The National Hardcore Drunk Driver Project

NEW JERSEY STATE PROFILE



KEY HARDCORE DRUNK DRIVING LEGISLATION:

- Administrative License Revocation – Yes
- High BAC Law (0.15 BAC or greater) – Yes
- Enhanced Penalties for Repeat Offenders – Yes
- 10 Year Look Back Period for Repeat Offenders – Yes
- More Severe Penalties for BAC test refusal than for test failure – N/A
 - The penalty for BAC test refusal could be less than the penalty for a drunk driving conviction. (Judge's determination)
- DWI Courts – No; Adult (Hybrid DWI/Drug) 0; Designated DWI 0
- Vehicles sanctions – Yes

UNDERAGE VIOLATIONS:

- Graduated licensing – Yes
 - No Required Supervised Driving Hrs.
- Zero Tolerance (i.e., .02 BAC or greater) – Yes - BAC limit: 0.01%
- Furnishing – Yes
 - parent/guardian, specified religious, educational, or medical purposes are exceptions

IGNITION INTERLOCK LAW REQUIREMENTS:

- Yes – Permissible for DWI conviction after license suspension



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DEFINITIONS: Hardcore drunk drivers can be defined as those who drive with a high blood alcohol concentration of .15 or above, who do so repeatedly, as demonstrated by having more than one drunk driving arrest, and who are highly resistant to changing their behavior despite previous sanctions, treatment or education.

Terms used in New Jersey that could identify hardcore drunk drivers are:

- Repeat offender, multiple offender, habitual offender — 2nd offense within 10 years of a 1st offense, and 3rd or subsequent offenses within 10 years of a 2nd offense.

DWI RECORDKEEPING & REPORTING: Driving records are a primary means of tracking the problem of hardcore drunk drivers.

The following are key aspects of New Jersey's records:

- New licensees are reviewed for prior DWI offenses in their previous states prior to license issuance.
- DWI convictions from other states are considered prior offenses in New Jersey.
- New Jersey utilizes a statewide DWI reporting system.
- Offenders are tracked through arrest, conviction, sanction imposed, fine amount paid, completion of sanction and appeal of case.
- There are approximately 5.7 million licensed drivers in New Jersey.
- The average BAC level of arrested offenders is .16, and the average BAC level of convicted offenders is not available.
- There were 29,270 drivers arrested for DWI in 2006. The number of people arrested as high BAC or repeat drunk drivers is not available. Data is not available regarding BAC test refusal.
- The number of people arrested for driving with a suspended license is not available.

SWIFT IDENTIFICATION: The quick detection, identification, and assessment of those who repeatedly drive drunk are essential to keeping the hardcore drunk driver off the road.

In New Jersey:

- Enforcement techniques used to detect and apprehend drunk drivers include: sobriety checkpoints, blanket patrols, publicized enforcement campaigns, standardized field sobriety testing, preliminary breath tests and mobile videotaping.
- BAC test refusal carries an administrative and a civil penalty:
 - Administrative penalty — License revocation periods of 7 months for a 1st offense, 2 years for a 2nd offense, and 10 years for 3rd and subsequent offenses.
 - Civil penalty — Fines of \$250-\$500.
 - The penalty for BAC test refusal could be less than the penalty for a drunk driving conviction. (Judge's determination)
- When a person refuses to submit to a chemical test, that fact is admissible as evidence in court.
- Hardcore drunk drivers are identified at sentencing.



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- Diversion programs are not used.
- When drunk driving offenses are plea-bargained to non-alcohol related offenses, it makes it difficult to identify hardcore drunk driving offenders. There is no anti-plea bargaining statute. Because DWI is not considered a “crime,” but instead is a serious traffic infraction, criminal charges do not apply. Administrative hearings on DWI at all levels of offense are heard in Municipal Court, and jury trials are not allowed.
- Alcohol assessment is conducted post-sentencing. *See Effective Treatment section.*

CERTAIN PUNISHMENT: The application of swift and certain penalties that restrict the offender from driving, punish the offense and rehabilitate the offender must be imposed consistently to change hardcore behavior.

The following sanctions may be ordered by the court or by the licensing authority:

- Licensing actions:
 - Suspension/Revocation — New Jersey has post-conviction, court-ordered licensing actions. The license revocation periods are not less than 7 months nor more than 1 year for a 1st offense, 2 years for a 2nd offense, and 10 years for 3rd and subsequent offenses. The license reinstatement fee is \$100.

In the state of New Jersey, the following sanctions may only be ordered by the court:

- Fines — Mandatory minimums:
 - 1st offense = \$250.
 - 2nd offense within 10 years of a 1st offense = \$500.
 - 3rd or subsequent offenses within 10 years of a 2nd offense = \$1,000.
- Incarceration — Mandatory minimums:
 - 1st offense = none.
 - 2nd offense = 48 consecutive hours (may be served in an Intoxicated Driver Resource Center).
 - 3rd or subsequent offenses = 180 days (up to 90 days may be served in an inpatient treatment center).
See Effective Treatment section.
- Work release — At the discretion of the court, an offender may be allowed to participate in a work release program. The law does not require that a minimum period of incarceration be served prior to participating in this program.
- Community service — 2nd offense = 30 days (May be mandatory and in addition to the minimum term of imprisonment); 3rd or subsequent offenses = No community service.
- Victim impact panel — At the discretion of the court.
- Vehicle actions:
 - Ignition interlock — Mandatory beginning at 2nd offense for a period of 1-3 years.
 - Vehicle registration revocation — May be imposed as an alternative to ignition interlock.
 - Vehicle impoundment — An offender’s vehicle must be impounded for 12 hours at the time of the arrest.
- Treatment — Mandatory for all offenders. Cost varies and the offender must pay. *See Effective Treatment section.*
- Other special assessments/surcharges — Insurance surcharges \$1,000–\$4,500 per year for 3 years; victim’s restitution;



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\$100 Drunk Driving Enforcement Fund surcharge; \$50 Violent Crimes Compensation Board surcharge; \$100 Intoxicated Driver Program (IDP) fee; \$75 Safe and Secure Community Programs fee.

- Driving while suspended — The penalties for driving on a suspended license as a result of a DWI conviction include imprisonment, fines, an additional license suspension period of 1 year and vehicle registration revocation for the same period as the license suspension.

In New Jersey, previous arrest or conviction records are available at the time of sentencing.

EFFECTIVE TREATMENT: Treatment and rehabilitation programs that change hardcore drunk driver behavior and lifestyles play an important role in reducing recidivism.

In New Jersey:

- Following conviction, all offenders must attend a state-funded Intoxicated Driver Resource Center (IDRC) for 2 days at 6 hours a day for education classes and a counseling session. The offender pays a surcharge for the program (1st offense = \$75 per day, 2nd offense = \$100 per day or \$200 for a 48 hour period). These fees may be increased via regulations promulgated by the Commissioner of Health after consulting with the Governor's Council on Alcoholism and Drug Abuse.
- Assessment of offenders is conducted as part of the IDRC program, and offenders do not return to court for final sentencing based on the assessment.
- Treatment is mandatory for all offenders. For the 2nd offense, the imprisonment term may be served in an IDRC. For 3rd and subsequent offenses, up to 90 days of the imprisonment term may be served in an inpatient rehabilitation facility but not an IDRC (The offender may return to the IDRC for a follow-up evaluation and treatment as needed).
- Offenders failing to comply with the terms of their program are not eligible for license reinstatement and may be returned to the court for further action.
- New Jersey does not have dedicated detention and treatment facilities that target the hardcore drunk driver outside of the IDRC system.

INNOVATIVE TACTICS:

Intoxicated Driver Program: New Jersey's unusual non-criminal approach allows the state to bring offenders to justice expeditiously and to address their rehabilitation more efficiently as well. In addition, the state programs of the IDRP are applied consistently, allowing fewer offenders to escape the "net" designed to improve their behavior. The Intoxicated Driver Program in New Jersey is 100% self-supporting from fees charged to offenders.

Earmarked funding: The Drunk Driving Enforcement Fund (DDEF) statute provides that, upon conviction for a violation of the State's drunk driving statute or the violation of the State's chemical breath analysis statute, the court collects a \$100 surcharge from the defendant and forwards it to the Division of Motor Vehicles. \$95 of the \$100 surcharge is deposited into the DDEF. The remaining \$5 is used for administrative purposes. Any law enforcement agency that makes an arrest leading to a DWI conviction is eligible for grants from the DDEF.



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An entity must allocate and expend at least 50% of the grant funds for the overtime paid to law enforcement personnel assigned to conduct additional law enforcement patrols or DWI checkpoint programs to increase the enforcement of the DWI statute. The remaining funds can be used for audiovisual equipment, breath-testing instruments, and other safety equipment needed to conduct DWI enforcement operations.