

Abbreviations:

DL	Driver's License
DWI	Driving While Intoxicated
DDEF	Drunk Driving Enforcement Fund
SNSF	Safe Neighborhood Services Fund
VCCO	Victims of Crime Compensation Office
IDRC	Intoxicated Drivers Resource Center
DEDR	Drug Enforcement & Demand Reduction
MVC	Motor Vehicle Commission
Interlock	Ignition Interlock Device

Additional Information

Step-down

A second DWI offender is treated as a first DWI offender for sentencing if more than ten years elapsed between their first and second offenses, and a third DWI offender is treated as a second DWI offender for sentencing if more than ten years elapsed between their second and third DWI offenses. N.J.S.A. 39:4-50(a)(3). Although the “step-down” provision may be used more than once, there is no “step-down” for a fourth or subsequent offense. See State v. Revie, 220 N.J. 126 (2014). However, application of the step-down provision does not erase the uncounted conviction from defendant's record; if a third offense occurs less than 10 years after a second offense, the defendant will be sentenced as a third offender even if, because of a step-down, the defendant received a first-offense sentence for the second conviction. See State v. Burroughs, 349 N.J. Super., 225 (App. Div. 2002).

Interlock

- Installation of an interlock is mandatory for all DWI offenders, except those who do not have a vehicle. N.J.S.A. 39:4-50.17(a)(1), Offenders are not permitted to drive any other vehicles other than the one in which the ignition interlock device has been installed. Ibid.
- Effective February 19, 2024 a DWI fine waived on 1st, 2nd, or 3rd offense if: 1) defendant voluntarily pre-installs interlock before date of conviction; and 2) defendant's NJ license was in good standing on the date of the offense up through date of conviction. Defendant must also request from MVC a DL with notation indicating person shall not operate motor vehicle without interlock.
- Effective February 19, 2024 if a DWI defendant voluntarily installs an interlock before conviction and their NJ license was in good standing from the date of the offense to date of conviction, then defendant is entitled to a credit of one day against any driver's license loss for every two days

the interlock has been installed. For a first DWI offense (BAC less than .15% or observation) when there is a pre-adjudication interlock installed, there is no DL suspension. ***Exception:*** defendant not entitled to any DL suspension credits if case involved serious bodily injury to another person (defined by N.J.S.A. 2C:11-1). □

Penalties for DWI and Permitting DWI

N.J.S.A. 39:4 50(a)

<u>First offense:</u> (operating or allowing operation) BAC of .08% but less than .10% (<i>per se</i>) or operation under the influence (observation)	
Fine	\$250 to \$400*
DWI Surcharge	\$125
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
SNSF	\$75
VCCO	\$50
IDRC	12 to 48 hours (during 2 consecutive days not less than 6 hours each day; if not met, then mandatory 2-day jail & continuing suspension pending compliance)
Jail	Up to 30 days (not mandatory)
Loss of DL	Until interlock installed
Interlock for Principal Vehicle	3 months (if installation of interlock is required, the court must collect the defendant's DL at time of sentencing; if pre-adjudication interlock installed – no loss of DL)
Facility visitation	Optional

<u>First offense:</u> (operating or allowing operation) BAC of .10% but less than .15% or under influence of drugs (observation)	
Fine	\$300 to \$500*
DWI Surcharge	\$125
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
SNSF	\$75
VCCO	\$50
IDRC	12 to 48 hours
Jail	Up to 30 days (not mandatory)
Loss of DL/Alcohol	Until interlock installed **
Loss of DL/Drugs	6 months to 12 months
Interlock for Principal Vehicle	7 months to 1 year (if installation of interlock is required, the court must collect the defendant's DL at time of sentencing; if pre-adjudication interlock installed – no loss of DL)
Facility visitation	Optional

* Fine waived if: 1) defendant pre-installs interlock before date of conviction; 2) defendant's NJ license was in good standing on the date of the offense up through the date of conviction; and 3) the defendant obtains a NJ driver's license with interlock notation. Not applicable to under influence of drugs.

** If defendant installs an interlock before conviction and their NJ license was in good standing from the date of the offense to date of conviction and includes the interlock notation, then defendant is entitled to a credit of one day against any driver's license loss for every two days the interlock has been installed. Exception: defendant is not entitled to any driver's license suspension credits if the case involved an accident with serious bodily injury to another person. Not applicable to under influence of drugs. Also - installation of interlock pre-disposition does not give credit toward the interlock period required post-sentence on a 1st, 2nd, or 3rd conviction.

First offense: (operating or allowing operation) BAC of .15% or higher	
Fine	\$300 to \$500*
DWI Surcharge	\$125
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
SNSF	\$75
VCCO	\$50
IDRC	12 to 48 hours
Jail	Up to 30 days (not mandatory)
Loss of DL	3 months**
Interlock for Principal Vehicle	During period of DL suspension and for 12 to 15 months after DL restored, commencing on installation of device and license restoration <input type="checkbox"/> If installation of interlock required, court must collect defendant's driver's license at time of sentencing <input type="checkbox"/> If driver has no license, they disqualified from applying until conclusion of suspension period
Facility visitation	Optional

Second Offense: (operating or allowing operation) BAC of .08% or higher (per se) or under influence of alcohol or drugs	
Fine	\$500 to \$1000*
DWI Surcharge	\$125
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
SNSF	\$75
VCCO	\$50
IDRC	In accord with treatment classification (usually 48 hours)
Jail	12 days to 90 days (Court may authorize 2 days served in IDRC)
Loss of DL	1 to 2 years**
Interlock for Principal Vehicle	During period of license forfeiture and for 2 to 4 years after license restored
Facility visitation	Optional

* Fine waived if: 1) defendant pre-installs interlock before date of conviction; 2) defendant's NJ license was in good standing on the date of the offense up through the date of conviction; and 3) the defendant obtains a NJ driver's license with interlock notation. Not applicable to under influence of drugs.

** If defendant installs an interlock before conviction and their NJ license was in good standing from the date of the offense to date of conviction and includes the interlock notation, then defendant is entitled to a credit of one day against any driver's license loss for every two days the interlock has been installed. Exception: defendant is not entitled to any driver's license suspension credits if the case involved an accident with serious bodily injury to another person. Not applicable to under influence of drugs. Also - installation of interlock pre-disposition does not give credit toward the interlock period required post-sentence on a 1st, 2nd, or 3rd conviction.

Third/Subsequent Offense: (operating or allowing operation) BAC of .08% of higher (per se) or under the influence of alcohol or drugs (observation)	
Fine	\$1000*
DWI Surcharge	\$125
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
SNSF	\$75
VCCO	\$50
IDRC	In accord with treatment classification
Jail	6 months (Up to 90 days may be served in IDRC approved in-- patient program)
Loss of DL	8 years**
Interlock for Principal Vehicle	During period of license forfeiture and for 2 to 4 years after license restored
Facility visitation	Optional

No motor vehicle

A person convicted of DWI who does not own, lease, or operate a motor vehicle shall attest to this to the court and defendant's DL will be suspended for the period of license suspension plus the period the interlock would have been installed under the relevant violation. N.J.S.A. 39:4-50.17(c). The person convicted 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. Ibid.

* Fine waived if: 1) defendant pre-installs interlock before date of conviction; 2) defendant's NJ license was in good standing on the date of the offense up through the date of conviction; and 3) the defendant obtains a NJ driver's license with interlock notation. Not applicable to under influence of drugs.

** If defendant installs an interlock before conviction and their NJ license was in good standing from the date of the offense to date of conviction and includes the interlock notation, then defendant is entitled to a credit of one day against any driver's license loss for every two days the interlock has been installed. Exception: defendant is not entitled to any driver's license suspension credits if the case involved an accident with serious bodily injury to another person. Not applicable to under influence of drugs. Also - installation of interlock pre-disposition does not give credit toward the interlock period required post-sentence on a 1st, 2nd, or 3rd conviction.

REFUSAL TO SUBMIT TO A CHEMICAL ALCOHOL TEST

N.J.S.A. 39:4-50.4a¹

<u>First offense:</u> Refusal to submit to chemical test (penalty provision at N.J.S.A. 39:4-50.4a.a)	
Fine	\$300 to \$500
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
IDRC	<u>Shall</u> refer offender to IDRC
Loss of DL	Forfeit the right to operate a motor vehicle <u>until installation</u> of ignition interlock device
Interlock for Principal Vehicle	9 to 15 months, commencing upon installation of the device and license restoration *If installation of interlock is required, the court must collect the defendant's driver's license at the time of sentencing.

<u>Second offense:</u> Refusal to submit to chemical test (penalty provision at N.J.S.A. 39:4-50.4a.a)	
Fine	\$500 to \$1000
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
IDRC	<u>Shall</u> refer offender to IDRC
Loss of DL	1 to 2 years following installation of ignition interlock device
Interlock for Principal Vehicle	Must be <u>consecutive</u> to any revocation imposed under N.J.S.A. 39:4-50 (39:4-50.4a.a) During period of license forfeiture and for 2 to 4 years after license restored. *If installation of interlock is required, the court must collect the defendant's driver's license at the time of sentencing.

¹ **Note:** Burden of proof standard is beyond a reasonable doubt. See State v. Cummings, 184 N.J. 84 (2005)

<u>Third or Subsequent offense:</u> Refusal to submit to chemical test (penalty provision at N.J.S.A. 39:4-50.4a.a)	
Fine	\$1000
DDEF Surcharge	\$100
Assessments	\$7
Court costs	Up to \$33
IDRC	<u>Shall</u> refer offender to IDRC
Loss of DL	8 years following installation of ignition interlock device
Interlock for Principal Vehicle	Must be <u>consecutive</u> to any revocation imposed under N.J.S.A. 39:4-50 (39:4-50.4a.a) During period of license forfeiture and for 2 to 4 years after license restored.*If installation of interlock is required, the court must collect the defendant's driver's license at the time of sentencing.

Commercial vehicle

N.J.S.A. 39:3-10.20 sets forth penalties involving commercial drivers convicted of DWI and refusal.