


Many New Jersey attorneys have recently expressed an interest to Muni-mail related to the impact of a New Jersey drunk driving conviction on a defendant who is licensed in Pennsylvania. The Pennsylvania Department of transportation web site indicates that no suspension will be imposed for a first offense DUI that occurs out of state, (which includes New Jersey). The web site is set forth below with relevant portions made bold. (With thanks to Evan Levow, esq.)

<http://www.dmv.state.pa.us/legislation/bulletin24.shtml>

<p>Search the Site</p> <input style="width: 60px; height: 20px; border: 1px solid #ccc;" type="text" value=""/> <input style="border: 1px solid #ccc; padding: 2px 5px;" type="button" value="Go"/>	<p style="text-align: right;"><a href="#">Home</a>   <a href="#">Contact Us</a>   <a href="#">PENNDOT</a>   <a href="#">Commonwealth of PA</a>   <a href="#">Shopping Cart</a> </p> <h2 style="margin: 0;">.08 DUI Legislation</h2> <p>Act 24, which lowered Pennsylvania's legal limit of alcohol from .10 to .08, was signed into law on September 30, 2003. The new Driving Under the Influence (DUI) Law creates a tiered approach toward DUI enforcement and treatment, and includes many changes to the penalties, terms of suspension, fines and other requirements. The combination of an individual's Blood Alcohol Content (BAC) level, and prior offenses, determines the licensing requirements and penalties. The new law focuses on treatment for first-time DUI offenders, rather than strictly punishment and suspension.</p> <p>There are now three levels of DUI:</p> <ol style="list-style-type: none"><li>1. General Impairment (.08 to .099% BAC)</li><li>2. High BAC (.10 to .159% BAC)</li><li>3. Highest BAC (.16% and higher)</li></ol> <p>Under the new DUI law minors, commercial drivers, school vehicle or bus drivers, and offenders involved in an accident that injures someone or causes property damage may be subject to the high BAC penalties even if their BAC is not in the high category. Offenders who refuse breath or chemical testing may be subject to the highest BAC penalties. The following charts show the penalties for each of the BAC categories:</p>
<p><a href="#">Driver and Vehicle Services</a></p> <p><a href="#">Online Services</a></p> <p><a href="#">Driver Licensing Services</a></p> <p><a href="#">Motor Vehicle Services</a></p> <p><a href="#">Online Business Services</a></p> <p><a href="#">General Information</a></p> <p><a href="#">Related Links</a></p> <p><a href="#">Site Index</a></p> <p><a href="#">Security on the Site</a></p> <p><a href="#">Privacy Policy</a></p> <p><a href="#">About this Site</a></p>	

**General Impairment penalties (Undetermined BAC, .08 to .099% BAC)**

No prior DUI offenses	ungraded misdemeanor up to 6 months probation \$300 fine alcohol highway safety school treatment when ordered
1 prior DUI offense	ungraded misdemeanor 12 month license suspension 5 days to 6 months jail time \$300 to \$2,500 fine alcohol highway safety school treatment when ordered 1 year ignition interlock
2 or more prior DUI offenses	2nd degree misdemeanor 12 month license suspension 10 days to 2 years prison \$500 to \$5,000 fine treatment when ordered 1 year ignition interlock

The new law creates a higher set of penalties for those having higher BAC levels. It allows for treatment at all levels, and requires alcohol highway safety school for all first and second time offenders.

**High BAC penalties (.10 to .159% BAC)**

No prior DUI offenses	ungraded misdemeanor 12 month license suspension 48 hours to 6 months prison \$500 to \$5,000 fine alcohol highway safety school treatment when ordered
1 prior DUI offense	ungraded misdemeanor 12 month suspension

	30 days to 6 months prison \$750 to \$5,000 fine alcohol highway safety school treatment when ordered 1 year ignition interlock
2 or more prior DUI offenses	1st degree misdemeanor 18 month license suspension 90 days to 5 years prison \$1,500 to \$10,000 fine treatment when ordered 1 year ignition interlock
3 or more prior DUI offenses	1st degree misdemeanor 18 month license suspension 1 to 5 years prison \$1,500 to \$10,000 fine treatment when ordered 1 year ignition interlock

For those at the highest BAC levels, the new law has strict penalties, but also allows for treatment. This even-handed approach allows for individuals to receive counseling for their alcohol problem, while still penalizing those who choose to continue the dangerous practice of drinking and driving.

In addition, drivers under the influence of controlled substances and those who refuse breath or chemical testing are subject to the highest BAC category penalties.

**Highest BAC penalties (.16% and higher) or Controlled Substance**

No prior DUI offenses	ungraded misdemeanor 12 month license suspension 72 hours to 6 months prison \$1,000 to \$5,000 fine alcohol highway safety school treatment when ordered
1 prior DUI offense	1st degree misdemeanor

	18 month license suspension 90 days to 5 years prison \$1,500 to \$10,00 fine alcohol highway safety school treatment when ordered 1 year ignition interlock
2 or more prior DUI offenses	1st degree misdemeanor 18 month license suspension 1 to 5 years prison \$2,500 to \$10,000 treatment when ordered 1 year ignition interlock

The following outlines specific components of the new law, and changes from the previous law that impacts DUI drivers.

#### **Blood Alcohol Content (BAC) Levels**

The Blood Alcohol Content (BAC) level for per se\* DUI is lowered to .08%.  
-Effective September 30, 2003

Penalties for DUI will be based on BAC and prior offenses.  
-Effective February 1, 2004

#### **Accelerated Rehabilitative Disposition (ARD)**

Requires courts to impose suspensions for BAC ARDs based on the following BAC ranges:

- Less than .10% - no suspension,
- .10% to less than .16 - 30 day suspension, or
- .16% and above - 60 day suspension

-Effective February 1, 2004

#### **License Suspensions**

Suspensions will be imposed as follows:

BAC below .10% and incapable of safe driving: No suspension for first offense if the driver meets certain criteria; 12 month license suspension for second or subsequent offense.

BAC greater than or equal to .10% and less than .16%: 12 month license suspension for first and second offense. 18 month suspension for third

or subsequent offense.

BAC greater than or equal to .16%: 12 month license suspension for first offense. 18 month suspension for second or subsequent offense.

# **Out-of-state DUI convictions: No suspension for first offense; 12 month license suspension for second or subsequent offense.**

-Effective February 1, 2004

## **DUI Treatment and Evaluation**

Treatment and evaluation processes are geared to rehabilitation.

-Effective - Phased-In Through 2009

## **Ignition Interlock**

Drivers who receive a second or subsequent DUI violation on or after September 30, 2003, can no longer serve an additional one year suspension in lieu of obtaining an ignition interlock device. Drivers are required to install ignition interlock on all vehicles owned (including leased) before driving privileges can be restored.

-Effective September 30, 2003

Additionally, the following exemptions and penalties have been added:

**Financial Hardship Exemption:** Drivers may apply for an exemption from the requirement to install the ignition interlock device on all of their vehicles. If the exemption is granted, ignition interlock installation will only be required on one vehicle.

-Effective February 1, 2004

**Employment Exemption:** Under certain circumstances, ignition interlock restricted drivers may operate employer owned vehicles but only in the course and scope of employment. The employee must notify the employer of the ignition interlock restriction and carry proof of employer notification on a PennDOT form. The employer owned vehicle cannot be a school bus/vehicle or large passenger vehicle.

-Effective February 1, 2004

**Ignition Interlock Violations:** Individuals convicted of driving without or tampering with the ignition interlock device will have their ignition interlock period extended 12 month from the date of conviction for the first offense and will have their driving privileges suspended for 12 months for the second or subsequent offenses. Upon restoration they must comply with ignition interlock for 12 months. Individuals, whose driving privileges are suspended during the ignition interlock period for a non-ignition interlock violation, must complete the ignition interlock period upon restoration.

-Effective February 1, 2004

#### **Occupational Limited Licenses (OLL's)**

First time DUI offenders may be eligible for an OLL after serving 60 days of their suspension. Individuals whose licenses are suspended for 18 months (for DUI or refusing breath or chemical testing) and have no more than one prior offense may be eligible for an OLL with an ignition interlock after serving 12 months of their suspension. In addition, first time underage drinking violators may be eligible for an OLL.

-Effective February 1, 2004

#### **Expungement of Accelerated Rehabilitation Disposition (ARD) Records**

PennDOT will automatically expunge ARD records after 10 years providing a person's operating privileges were not revoked as a habitual offender and/or the person was not a commercial driver at the time of the violation.

-Effective February 1, 2004

#### **Credit (Suspension)**


Individuals suspended for driving a vehicle not equipped with an ignition interlock device or driving under a DUI-related suspension, with a BAC of .02% or greater cannot receive credit for their suspension until jail time has been served.

-Effective February 1, 2004

#### **Implied Consent/Breath or Chemical Testing**

Suspensions for individuals who refuse to submit to breath or chemical testing may be increased. Breath or chemical testing may now be required for individuals who are arrested for driving under a DUI-related suspension or driving without an ignition interlock device.

-Effective February 1, 2004



\* "Per se" is a Latin phrase that means "by itself." Evidence that a person drove, operated or was in control of a motor vehicle with a BAC of .08% or higher is enough by itself to convict the person of DUI. A person with BAC less than .08% might still be convicted of DUI if there is evidence that he or she imbibed enough alcohol to make him or her incapable of safely driving, operating or being in control of a motor vehicle.