

Jan 14, 2006

MEMBERS LOGIN

NEW USERS REGISTER

BENEFITS OF MEMBERSHIP

HOME DELIVERY

CONTACT NEWSDAY



Today 51° Chance of a Thunderstorm

Sunday 30°/14° Snow

Monday 36°/24° Partly Cloudy

Site Search

News Homepage Sports Business Entertainment Shopping Jobs Cars Homes Place an ad NY Newsday.com

Long Island | New York City | Nation | World | Columnists | Health/Science | State & Region | Obituaries | Schools | Politics | LI Life | Corrections

Sales & Deals

Grocery coupons

Jobs

Cars.com

Real estate

Apartments

Classifieds

Dating

Place an ad

Pay-Per-Click

How2Guide



>NEWS

Long Island

New York City

Business

Sports

Travel

Entertainment

>READER SERVICES

About Newsday | Contact us

Subscribe Start now and get a \$100 gift card and premium web access!

How to advertise

Minority job conference | Career opportunities | Internships

Buy photos | Archives

>PARTNERS

WB11

Star Community Publishing

Island Publications Tourism

Parents & Children

Hoy - News in Spanish

AP New Jersey

Supreme Court orders judges to accept evidence from new DWI test _ for now

By JEFFREY GOLD Associated Press Writer

January 11, 2006, 6:21 PM EST

TRENTON, N.J. -- Even though a hearing on the reliability of a new breath test for suspected drunken drivers has not yet been conducted, the state Supreme Court has ordered judges throughout the state to accept its results as evidence in prosecuting DWI cases.

The court also said most sentences for those convicted with evidence from the Alcotest 7110 MKIII-C should be put on hold until the Supreme Court rules on the machine's dependability.

The order from the state's highest court lifts freezes on hundreds of drunken driver prosecutions that were put on hold last year by judges after defense lawyers raised concerns about the machine.

The Alcotest has replaced the Breathalyzer in 10 of the 21 counties and is to be in the others by November.

The Supreme Court advised judges, when possible, to cite evidence beyond the Alcotest readings _ such as "objective observational evidence" _ when sentencing people convicted of drunken driving.

But sentences for first offenders would be temporarily stayed unless the trial judge determines that the severity of the crime and the defendant's record "requires the immediate execution of the sentence," the court said.

The four-page order was signed by Chief Justice Deborah T. Poritz on Tuesday and made public on Wednesday. All six associate justices joined in the order.

The order was criticized by a lawyer for drunken driving suspects who had won freezes on DWI prosecutions in Burlington, Middlesex, Morris and Union counties.

"It's basically allowing evidence into cases that is not allowed under current case law," Evan M. Levow said. "There's no evidence before any court right now to suggest that this machine is reliable."

The latest development came nearly a month after the Supreme Court, of its own accord, decided to take control of disputes over the new machine that were surfacing in several counties. At that time, the court appointed a special master to conduct a hearing on the Alcotest's reliability.

The special master, retired appellate judge Michael Patrick King, has not set a date for that hearing, Levow said. The proceeding could take weeks to complete, after which the Supreme Court would review his findings and hear oral arguments.

The Alcotest was certified as accurate in 2003 by state Superior Court Judge Francis J. Orlando Jr. in Camden County.

The state Attorney General's Office maintained that the 2003 hearing gave statewide recognition of the Alcotest machine, but a Superior Court judge in Middlesex County disagreed in the fall and put DWI cases there on hold. Burlington, Morris and Union followed in December.

Levow, a Cherry Hill lawyer whose practice is devoted to drunken driving defenses, contended he has seen erroneous readings of blood alcohol content in many of the 20 Alcotest cases he is handling. Part of the reason is that the machine is not properly configured, he said.

The legal threshold for intoxication in New Jersey is 0.08 percent.

Email this story Printer friendly format

Most emailed

- "Queer Eye" for Huntington men's club
 - A gaping deficit
 - Benihana shrimp toss cited in death
 - A gaping deficit at Patchogue-Medford schools
 - The magic number is '24'
- More emailed stories

Best Bets

| | | | | | | |
|----|----|----|----|----|----|----|
| S | M | T | W | T | F | S |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |

Search by event type

Choose type

Search by name (optional)

Search

Local Search



Restaurants | Caterers | Travel | Legal | Wedding Service | Home & Garden | Health & Wellness

Enter a Category

View

List

Featured Advertisers

Columnists



Saul Friedman Here we go, down the hole, chasing a Part D drug plan

News on the go

Get the latest headlines on your cell phone at http://www.newsday.com.

Find It Fast

- Act 2/Retirement Advice
- AP top news
- Archives
- Columnists
- Contact Newsday
- Comics
- Corrections
- Crosswords
- Events
- Five-day forecast
- The Fold

The Alcotest uses two independent, simultaneous methods to analyze a suspect's breath to determine the level of intoxication: infrared light and an electrochemical reaction. It produces a printout with both readings.

The Breathalyzer requires its operator to compare the difference in the amount of light coming from two tubes of chemicals. The suspect's breath is introduced to one tube, which darkens if alcohol is detected.

__P>

On the Net:

Supreme Court order: <http://www.judiciary.state.nj.us/notices/2006/n060111b.pdf>

[Subscribe to Newsday home delivery](#) | [Article licensing and reprint options](#)

SPONSORED LINKS

Lower Blood Pressure. No Side Effects

Doctor recommended medical device to lower blood pressure without side effects - Guaranteed.
resperate.com

Amazing Weight Loss Patch

CBS 60 Minutes reports "Hoodia Works - No Desire To Eat" - Try it FREE
curbyourcravings.com

Ll's Best Veterinary Care

Most advanced care 24/7 ER; full specialty staff; STAY WITH YOUR PET
Vetspecialist.com

Advanced DDS Dentistry for Long Island

High quality, state-of-the-art techniques & equipment for your family's dentistry needs in Valley Stream, NY.
advanceddds.com

[Buy a link here](#)

[Get the latest headlines on your wireless device at http://www.newsday.com.](#)

By visiting this site, you are agreeing to our [Terms of Service](#) and [Privacy Policy](#). Copyright 2006 Newsday Inc.

Partners: [Shopping: ShopLocal.com](#) | [Careerbuilder for jobs](#) | [Cars.com for Autos](#) | [Apartments.com for rentals](#) | [Homescape.com for Homes](#)

- [Food](#)
- [HiFive / High School sports](#)
- [Home and Garden](#)
- [Horoscopes](#)
- [Impulse](#)
- [Jobs](#)
- [LI History](#)
- [LI: Our Natural World](#)
- [Lottery](#)
- [Marine forecast](#)
- [Movies](#)
- [Obituaries](#)
- [Part II](#)
- [Past 7 days](#)
- [Personals](#)
- [Print edition / Today's paper](#)
- [Real Estate](#)
- [Reprint information](#)
- [RSS !\[\]\(0cce15e73bc54c78b2c9e303050d05b7_img.jpg\)](#)
- [Schools](#)
- [Ski reports](#)
- [Special projects](#)
- [Sports scores](#)
- [Stocks](#)
- [Subscription services](#)
- [Theater](#)
- [Traffic](#)
- [Travel](#)
- [Tide charts](#)
- [Weather](#)