

## New Jersey Supreme Court gives the OK on Alcotest

Written by Australian Business

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September 27, 2013 /**24-7PressRelease**/ -- New Jersey Supreme Court gives the OK on Alcotest

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New Jersey's highest court recently ruled in favor of the continued use of Alcotest in New Jersey drunk driving cases. Much like a Breathalyzer, Alcotest is used by law enforcement to measure the blood alcohol content (BAC) of drivers suspected of driving while intoxicated in New Jersey.

Owing to widespread concerns over its reliability, Alcotest had been the subject of a lengthy legal battle over its continued use in New Jersey DWI cases. In 2006, the use of the device was temporarily halted due to accuracy concerns after a challenge was brought by a group of 20 New Jersey DWI defendants. In 2008, however, the New Jersey Supreme Court ruled that the device was "generally scientifically reliable" and, with certain modifications, permitted its continued use.

### Software flaws alleged

Under the terms of the 2008 ruling, the state of New Jersey was required to implement several immediate software changes to address nine major deficiencies identified in the Alcotest memory system. Additionally, court ordered the state to establish a database of Alcotest results that would be made available to people charged with DWI and their criminal defense lawyers.

In the recent hearing before the New Jersey Supreme Court, an attorney for the challengers argued that Alcotest should once again be barred because the state has not complied with the requirements imposed by the 2008 court order. Not only has the state failed to address the software concerns, they argued, but the state's Alcotest database is not sufficiently searchable.

The challengers also argued that the machines can produce inaccurate readings for older women, who often lack the lung capacity to provide an optimal breath sample, potentially resulting in wrongful convictions for some defendants. The group argued in favor of replacing the Alcotest machines with blood tests, which it contends are less prone to error.

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Devices to be phased out by 2016, state says

In a ruling issued September 18, 2013, the court held that New Jersey police officers can continue using the state's nearly 600 Alcotest devices to obtain evidence from drivers suspected of DWI. The decision also reversed the section of the 2008 order requiring software updates for the machines.

In its written opinion, the court reasoned that "in spite of its best efforts to do so, it does not have the ability to comply." Previous attempts to upgrade the software were abandoned after they proved incompatible with the state's database system. The state says it plans to transition to a new version of the Alcotest device by 2016, which it says will eliminate the accuracy concerns.

To help protect their legal rights and provide the best chance of a favorable outcome, people who are charged with DWI or any other criminal offense in New Jersey are advised to seek help right away from an experienced criminal defense lawyer.