

2C:11-5

LEGISLATIVE HISTORY CHECKLIST

NJSA 2C:11-5 (Death by auto--revise statute)

LAWS 1981 CHAPTER 312

Bill No. S1417

Sponsor(s) Orechio

Date Introduced July 28, 1980

Committee: Assembly Judiciary, Law, Public Safety & Defense

Senate Judiciary

Amended during passage Yes
according to Governor's recommendations

~~No~~ Amendments denoted by asterisks

Date of Passage: Assembly June 22, 1981

Re-enacted 11-30-81

Senate Nov. 24, 1980

Re-enacted 11-12-81

Date of approval Dec. 3, 1981

Following statements are attached if available:

| | | |
|-------------------------------|------------|-----------------------|
| Sponsor statement | <u>Yes</u> | No (Below) |
| Committee Statement: Assembly | <u>Yes</u> | No |
| Senate | <u>Yes</u> | No |
| Fiscal Note | <u>Yes</u> | No |
| Veto Message | <u>Yes</u> | No |
| Message on signing | <u>Yes</u> | No |

Following were printed:

| | | |
|----------|------------|---------------|
| Reports | <u>Yes</u> | No |
| Hearings | <u>Yes</u> | No |

Sponsor's statement:

The purpose of this bill is to bring the "New Jersey Code of Criminal Justice" into conformity with the Model Penal Code by reducing the standard of conduct required for conviction of the crime of death by auto from willful and wanton disregard to wanton and reckless disregard.

6/22/81

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SENATE, No. 1417

STATE OF NEW JERSEY

INTRODUCED JULY 28, 1980

By Senator ORECHIO

Referred to Committee on Judiciary

AN ACT concerning death by auto and amending N. J. S. 2C:11-5.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. N. J. S. 2C:11-5 is amended to read as follows:

2 2C:11-5. Death by Auto. a. Criminal homicide constitutes death
3 by auto when it is caused by driving a vehicle [carelessly and
4 heedlessly, in a willful or wanton disregard of the rights or safety
5 of others] ***[in a careless, reckless, or negligent manner, or with a
6 wanton and reckless disregard of human life or safety.]** *reck-
6A lessly*****[, or negligently]***** ****[under circumstances manifesting
6B an extreme indifference to human life]**** *****[**in a willful or
6C wanton disregard of the rights and safety of others**]*****.*

7 b. Death by auto is a crime of the fourth degree.

8 c. For good cause shown the court may, in accepting a plea of
9 guilty under this section, order that such plea not be evidential in
10 any civil proceeding.

1 2. This act shall take effect immediately.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1417

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 1980

Senate Bill No. 1417 would lower the standard of conduct required for a conviction under New Jersey's death by auto statute. It is felt that the present standard is too restrictive making convictions a virtual impossibility. Senate Bill No. 1417 would establish the following standard: that the vehicle was driven "recklessly, or negligently under circumstances manifesting an extreme indifference to human life." This language was suggested by the Division of Criminal Justice and was substituted by committee amendment, for the language originally proposed in Senate Bill No. 1417.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 12, 1981

SENATE BILL NO. 1417 (2nd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I am returning Senate Bill No. 1417 (2nd OCR), with my objections for reconsideration.

This bill revises the definition of criminal homicide caused by driving a vehicle. A driver is guilty when his or her conduct is shown to be reckless, as that term is defined by the Criminal Code, or negligent, with "willful or wanton disregard of the rights and safety of others."

My objection to the bill in its present form concerns the ability of negligence, under certain circumstances, to sustain a criminal conviction. In my view, to require proof of "willful or wanton disregard" creates an inherent contradiction in the definition of negligence. To require a different, extreme version of negligence would only duplicate the standard of recklessness already provided for by this bill.

Accordingly, I herewith return Senate Bill No. 1417 (2nd OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, Lines 6A-6C: After "recklessly" omit ", or negligently in a willful or wanton disregard of the rights and safety of others"

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

12-3-81

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FROM THE OFFICE OF THE
GOVERNOR

Governor Byrne conditionally vetoed the legislation November 12, suggesting the adoption of a residency requirement as an incentive for the retention of farmland. The Legislature adopted his recommendations.

S-1417, sponsored by Senator Carmen Orechio (D-Essex), revising the standards of culpability in the New Jersey Criminal Code's death-by-auto statute.

Under the bill, a driver will be guilty of criminal homicide if his conduct is shown to be "reckless." The term "reckless" is defined by the New Jersey Criminal Code as a conscious disregard of an unjustifiable risk.

The term replaces the original culpability standard of "careless and heedless" actions which are not defined in the code.

Governor Byrne conditionally vetoed this legislation for technical reasons on November 12.

S-1447, sponsored by Senator Walter E. Foran (R-Mercer), creating an advisory board for the Marie H. Katzenbach School for the Deaf.

The advisory board would consist of between seven and fifteen members representing professional and lay interests, appointed by the State Board of Education with the approval of the Governor.

The Board would advise and assist the Superintendent of the Katzenbach School in the planning, implementation, and evaluation of educational programs at the school.

Governor Byrne conditionally vetoed this bill on November 12. He suggested that the original bill, providing that appointments to the Board be made by the Commissioner of Education with the approval of the State Board of Education, be revised to include gubernatorial approval.

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