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**REPORTS:** Yes

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**NEWSPAPER ARTICLES:** Yes

"Christie signs law for stricter punishment for DUI drivers," Associated Press State Wire: New Jersey, July 23, 2017

"N.J. toughens penalties for DWI fatalities," The Star-Ledger, July 23, 2017

"Getting tough on DWI fatalities," The Times, July 23, 2017

"Oroho's 'Ralph & David's Law' signed by governor - Increases penalties for drunk drivers who kill," The Township Journal, July 24, 2017

"Christie signs law honoring DWI victim Ralph Politi Jr.," Daily Record, July 21, 2017

RWH/JA

P.L.2017, CHAPTER 165, *approved July 21, 2017*  
Assembly, No. 3686 (*First Reprint*)

1 AN ACT concerning <sup>1</sup>**[negligent]** strict liability<sup>1</sup> vehicular homicide  
2 <sup>1</sup>**[**, designating the act as**]** and designated<sup>1</sup> “Ralph and David’s  
3 Law,” supplementing chapter 11 of Title 2C of the New Jersey  
4 Statutes, and amending <sup>1</sup>**[**N.J.S.2C:11-5 and N.J.S.2C:44-1**]**  
5 various sections of the statutory law<sup>1</sup>.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. (New section) a. Criminal homicide constitutes <sup>1</sup>**[negligent]**  
11 strict liability<sup>1</sup> vehicular homicide when it is caused by  
12 <sup>1</sup>**[negligently]**<sup>1</sup> driving a vehicle <sup>1</sup>while intoxicated<sup>1</sup> in violation of  
13 R.S.39:4-50 or <sup>1</sup>operating a<sup>1</sup> vessel <sup>1</sup>under the influence of alcohol  
14 or drugs<sup>1</sup> in violation of section 3 of P.L.1952, c.157 (C.12:7-46).

15 b. <sup>1</sup>**[Negligent]** Strict liability<sup>1</sup> vehicular homicide is a crime  
16 of the third degree, but the presumption of nonimprisonment set  
17 forth in subsection e. of N.J.S.2C:44-1 shall not apply <sup>1</sup>**[**to persons  
18 convicted of negligent vehicular homicide**]**<sup>1</sup>.

19 <sup>1</sup>c. The provisions of N.J.S.2C:2-3 governing the causal  
20 relationship between conduct and result shall not apply in a  
21 prosecution under this section. For purposes of this offense, the  
22 defendant's act of operating a motor vehicle while intoxicated in  
23 violation of R.S.39:4-50 or operating a vessel under the influence of  
24 alcohol or drugs in violation of section 3 of P.L.1952, c.157  
25 (C.12:7-46) is the cause of death when:

26 (1) The operation of the motor vehicle or vessel is an antecedent  
27 but for which the death would not have occurred; and

28 (2) The death was not:

29 (a) too remote in its occurrence as to have a just bearing on the  
30 defendant's liability; or

31 (b) too dependent upon the conduct of another person which was  
32 unrelated to the defendant's operation of a motor vehicle or vessel  
33 as to have a just bearing on the defendant's liability.

34 d. It shall not be a defense to a prosecution under this section  
35 that the decedent contributed to his own death by reckless or  
36 negligent conduct or operation of a motor vehicle or vessel.

37 e. Nothing in this section shall be deemed to preclude, if the  
38 evidence so warrants, an indictment and conviction for any other  
39 offense.<sup>1</sup>

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted May 12, 2016.

1       <sup>1</sup>2. N.J.S.2C:11-2 is amended to read as follows:

2       2C:11-2. Criminal homicide.

3       a. A person is guilty of criminal homicide if he purposely,  
4 knowingly, recklessly or, under the circumstances set forth in  
5 **【section】** N.J.S.2C:11-5 or section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
6 (pending before the Legislature as this bill), causes the death of  
7 another human being.

8       b. Criminal homicide is murder, manslaughter or death by auto  
9 or vessel.<sup>1</sup>

10 (cf: P.L.1979, c.178, s.20)

11

12       <sup>1</sup>**【2.】** 3.<sup>1</sup> N.J.S.2C:11-5 is amended to read as follows:

13       2C:11-5. Death by auto or vessel.

14       a. Criminal homicide constitutes reckless vehicular homicide  
15 when it is caused by driving a vehicle or vessel recklessly.

16       Proof that the defendant fell asleep while driving or was driving  
17 after having been without sleep for a period in excess of 24  
18 consecutive hours may give rise to an inference that the defendant  
19 was driving recklessly. Proof that the defendant was driving while  
20 intoxicated in violation of R.S.39:4-50 or was operating a vessel  
21 under the influence of alcohol or drugs in violation of section 3 of  
22 P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the  
23 defendant was driving recklessly. Proof that the defendant was  
24 operating a hand-held wireless telephone while driving a motor  
25 vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3)  
26 may give rise to an inference that the defendant was driving  
27 recklessly. Nothing in this section shall be construed to in any way  
28 limit the conduct or conditions that may be found to constitute  
29 driving a vehicle or vessel recklessly.

30       b. Except as provided in paragraph (3) of this subsection,  
31 reckless vehicular homicide is a crime of the second degree.

32       (1) If the defendant was operating the auto or vessel while under  
33 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
34 habit-producing drug, or with a blood alcohol concentration at or  
35 above the prohibited level as prescribed in R.S.39:4-50, or if the  
36 defendant was operating the auto or vessel while his driver's license  
37 or reciprocity privilege was suspended or revoked for any violation  
38 of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
39 **【Director】** Chief Administrator of the **【Division of Motor**  
40 **Vehicles】** New Jersey Motor Vehicle Commission pursuant to  
41 P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation  
42 of R.S.39:4-96, the defendant shall be sentenced to a term of  
43 imprisonment by the court. The term of imprisonment shall include  
44 the imposition of a minimum term. The minimum term shall be  
45 fixed at, or between, one-third and one-half of the sentence imposed  
46 by the court or three years, whichever is greater, during which the  
47 defendant shall be ineligible for parole.

1 (2) The court shall not impose a mandatory sentence pursuant to  
2 paragraph (1) of this subsection unless the grounds therefor have  
3 been established at a hearing. At the hearing, which may occur at  
4 the time of sentencing, the prosecutor shall establish by a  
5 preponderance of the evidence that the defendant was operating the  
6 auto or vessel while under the influence of any intoxicating liquor,  
7 narcotic, hallucinogenic or habit-producing drug, or with a blood  
8 alcohol concentration at or above the level prescribed in R.S.39:4-  
9 50 or that the defendant was operating the auto or vessel while his  
10 driver's license or reciprocity privilege was suspended or revoked  
11 for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512  
12 (C.39:4-50.4a), by the **【Director】** Chief Administrator of the  
13 **【Division of Motor Vehicles】** New Jersey Motor Vehicle  
14 Commission pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by  
15 the court for a violation of R.S.39:4-96. In making its findings, the  
16 court shall take judicial notice of any evidence, testimony or  
17 information adduced at the trial, plea hearing, or other court  
18 proceedings and shall also consider the presentence report and any  
19 other relevant information.

20 (3) **【Vehicular】** Reckless vehicular homicide is a crime of the  
21 first degree if the defendant was operating the auto or vessel while  
22 in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
23 50.4a) while:

24 (a) on any school property used for school purposes which is  
25 owned by or leased to any elementary or secondary school or school  
26 board, or within 1,000 feet of such school property;

27 (b) driving through a school crossing as defined in R.S.39:1-1 if  
28 the municipality, by ordinance or resolution, has designated the  
29 school crossing as such; or

30 (c) driving through a school crossing as defined in R.S.39:1-1  
31 knowing that juveniles are present if the municipality has not  
32 designated the school crossing as such by ordinance or resolution.

33 A map or true copy of a map depicting the location and  
34 boundaries of the area on or within 1,000 feet of any property used  
35 for school purposes which is owned by or leased to any elementary  
36 or secondary school or school board produced pursuant to section 1  
37 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under  
38 subparagraph (a) of this paragraph.

39 It shall be no defense to a prosecution for a violation of  
40 subparagraph (a) or (b) of this paragraph that the defendant was  
41 unaware that the prohibited conduct took place while on or within  
42 1,000 feet of any school property or while driving through a school  
43 crossing. Nor shall it be a defense to a prosecution under  
44 subparagraph (a) or (b) of this paragraph that no juveniles were  
45 present on the school property or crossing zone at the time of the  
46 offense or that the school was not in session.

47 (4) If the defendant was operating the auto or vessel in violation  
48 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the

1 defendant's license to operate a motor vehicle shall be suspended  
 2 for a period of between five years and life, which period shall  
 3 commence upon completion of any prison sentence imposed upon  
 4 that person.

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

8 d. Nothing herein shall be deemed to preclude, if the evidence  
 9 so warrants, an indictment and conviction for aggravated  
 10 manslaughter under the provisions of subsection a. of N.J.S.2C:11-  
 11 4.

12 As used in this section, "auto or vessel" means all means of  
 13 conveyance propelled otherwise than by muscular power.

14 e. Any person who violates paragraph (3) of subsection b. of  
 15 this section shall forfeit the auto or vessel used in the commission  
 16 of the offense, unless the defendant can establish at a hearing,  
 17 which may occur at the time of sentencing, by a preponderance of  
 18 the evidence that such forfeiture would constitute a serious hardship  
 19 to the family of the defendant that outweighs the need to deter such  
 20 conduct by the defendant and others. In making its findings, the  
 21 court shall take judicial notice of any evidence, testimony or  
 22 information adduced at the trial, plea hearing, or other court  
 23 proceedings and shall also consider the presentence report and any  
 24 other relevant information. Forfeiture pursuant to this subsection  
 25 shall be in addition to, and not in lieu of, civil forfeiture pursuant to  
 26 chapter 64 of this title.

27 (cf: P.L.2012, c.22, s.1)

28

29 <sup>1</sup>4. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to  
 30 read as follows:

31 1. A motor vehicle operator who knows he is involved in an  
 32 accident and knowingly leaves the scene of that accident under  
 33 circumstances that violate the provisions of R.S.39:4-129 shall be  
 34 guilty of a crime of the second degree if the accident results in the  
 35 death of another person.

36 If the evidence so warrants, nothing in this section shall be  
 37 deemed to preclude an indictment and conviction for aggravated  
 38 manslaughter under the provisions of N.J.S.2C:11-4 **【or】** , reckless  
 39 vehicular homicide under the provisions of N.J.S.2C:11-5 or  
 40 **【negligent】** strict liability vehicular homicide under the provisions  
 41 of section 1 of P.L. , c. (C. ) (pending before the  
 42 Legislature as this bill).

43 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
 44 provisions of law, a conviction arising under this section shall not  
 45 merge with a conviction for aggravated manslaughter under the  
 46 provisions of N.J.S.2C:11-4 **【or for】** , reckless vehicular homicide  
 47 under the provisions of N.J.S.2C:11-5 or **【negligent】** strict liability  
 48 vehicular homicide under the provisions of section 1 of P.L. ,

1 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) and a  
2 separate sentence shall be imposed upon each such conviction.

3 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
4 provisions of law, when the court imposes multiple sentences of  
5 imprisonment for more than one offense, those sentences shall run  
6 consecutively.

7 For the purposes of this section, neither knowledge of the death  
8 nor knowledge of the violation are elements of the offense and it  
9 shall not be a defense that the operator of the motor vehicle was  
10 unaware of the death or of the provisions of R.S.39:4-129.<sup>1</sup>

11 (cf: P.L.2007, c.83, s.1)

12

13 <sup>1</sup>5. Section 1 of P.L.2014, c.17 (C.2C:11-5.2) is amended to  
14 read as follows:

15 1. a. Whenever any vessel, as defined in section 2 of P.L.1995,  
16 c.401 (C.12:7-71), is involved in an accident upon the waters of this  
17 State, and the operator of that vessel knows he is involved in an  
18 accident and knowingly leaves the scene of that accident under  
19 circumstances that violate the provisions of section 11 of P.L.1962,  
20 c.73 (C.12:7-34.46), that operator shall be guilty of a crime of the  
21 second degree if the accident results in the death of another person,  
22 and shall be guilty of a crime of the third degree if the accident  
23 results in serious bodily injury to another person. The presumption  
24 of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to  
25 persons convicted under the provisions of this section.

26 b. If the evidence so warrants, nothing in this section shall be  
27 deemed to preclude an indictment and conviction for aggravated  
28 manslaughter under the provisions of N.J.S.2C:11-4 **【or】**, reckless  
29 vehicular homicide under the provisions of N.J.S.2C:11-5 or  
30 **【negligent】** strict liability vehicular homicide under the provisions  
31 of section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
32 Legislature as this bill).

33 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
34 provisions of law, a conviction arising under this section shall not  
35 merge with a conviction for aggravated manslaughter under the  
36 provisions of N.J.S.2C:11-4 **【or for】**, reckless vehicular homicide  
37 under the provisions of N.J.S.2C:11-5 or **【negligent】** strict liability  
38 vehicular homicide under the provisions of section 1 of P.L. \_\_\_\_\_,  
39 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill) and a  
40 separate sentence shall be imposed upon each such conviction.

41 d. Notwithstanding the provisions of N.J.S.2C:44-5 or any  
42 other provisions of law, when the court imposes multiple sentences  
43 of imprisonment for more than one offense, those sentences shall  
44 run consecutively.

45 e. For the purposes of this section, knowledge of the death,  
46 knowledge of the serious bodily injury, or knowledge of the  
47 violation shall not be elements of the offense and it shall not be a

1 defense that the operator of the vessel was unaware of the death or  
2 of the provisions of section 11 of P.L.1962, c.73 (C.12:7-34.46).<sup>1</sup>  
3 (cf: P.L.2014, c.17, s.1)

4

5 **1[3.] 6.**<sup>1</sup> N.J.S.2C:44-1 is amended to read as follows:

6 2C:44-1. a. In determining the appropriate sentence to be  
7 imposed on a person who has been convicted of an offense, the  
8 court shall consider the following aggravating circumstances:

9 (1) The nature and circumstances of the offense, and the role of  
10 the actor therein, including whether or not it was committed in an  
11 especially heinous, cruel, or depraved manner;

12 (2) The gravity and seriousness of harm inflicted on the victim,  
13 including whether or not the defendant knew or reasonably should  
14 have known that the victim of the offense was particularly  
15 vulnerable or incapable of resistance due to advanced age, ill-  
16 health, or extreme youth, or was for any other reason substantially  
17 incapable of exercising normal physical or mental power of  
18 resistance;

19 (3) The risk that the defendant will commit another offense;

20 (4) A lesser sentence will depreciate the seriousness of the  
21 defendant's offense because it involved a breach of the public trust  
22 under chapters 27 and 30, or the defendant took advantage of a  
23 position of trust or confidence to commit the offense;

24 (5) There is a substantial likelihood that the defendant is  
25 involved in organized criminal activity;

26 (6) The extent of the defendant's prior criminal record and the  
27 seriousness of the offenses of which he has been convicted;

28 (7) The defendant committed the offense pursuant to an  
29 agreement that he either pay or be paid for the commission of the  
30 offense and the pecuniary incentive was beyond that inherent in the  
31 offense itself;

32 (8) The defendant committed the offense against a police or  
33 other law enforcement officer, correctional employee or fireman,  
34 acting in the performance of his duties while in uniform or  
35 exhibiting evidence of his authority; the defendant committed the  
36 offense because of the status of the victim as a public servant; or the  
37 defendant committed the offense against a sports official, athletic  
38 coach or manager, acting in or immediately following the  
39 performance of his duties or because of the person's status as a  
40 sports official, coach or manager;

41 (9) The need for deterring the defendant and others from  
42 violating the law;

43 (10) The offense involved fraudulent or deceptive practices  
44 committed against any department or division of State government;

45 (11) The imposition of a fine, penalty or order of restitution  
46 without also imposing a term of imprisonment would be perceived  
47 by the defendant or others merely as part of the cost of doing  
48 business, or as an acceptable contingent business or operating

1 expense associated with the initial decision to resort to unlawful  
2 practices;

3 (12) The defendant committed the offense against a person who  
4 he knew or should have known was 60 years of age or older, or  
5 disabled;

6 (13) The defendant, while in the course of committing or  
7 attempting to commit the crime, including the immediate flight  
8 therefrom, used or was in possession of a stolen motor vehicle;

9 (14) The offense involved an act of domestic violence, as that  
10 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
11 (C.2C:25-19), committed in the presence of a child under 16 years  
12 of age; and

13 (15) The offense involved an act of domestic violence, as that  
14 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
15 (C.2C:25-19) and the defendant committed at least one act of  
16 domestic violence on more than one occasion.

17 b. In determining the appropriate sentence to be imposed on a  
18 person who has been convicted of an offense, the court may  
19 properly consider the following mitigating circumstances:

20 (1) The defendant's conduct neither caused nor threatened  
21 serious harm;

22 (2) The defendant did not contemplate that his conduct would  
23 cause or threaten serious harm;

24 (3) The defendant acted under a strong provocation;

25 (4) There were substantial grounds tending to excuse or justify  
26 the defendant's conduct, though failing to establish a defense;

27 (5) The victim of the defendant's conduct induced or facilitated  
28 its commission;

29 (6) The defendant has compensated or will compensate the  
30 victim of his conduct for the damage or injury that he sustained, or  
31 will participate in a program of community service;

32 (7) The defendant has no history of prior delinquency or  
33 criminal activity or has led a law-abiding life for a substantial  
34 period of time before the commission of the present offense;

35 (8) The defendant's conduct was the result of circumstances  
36 unlikely to recur;

37 (9) The character and attitude of the defendant indicate that he is  
38 unlikely to commit another offense;

39 (10) The defendant is particularly likely to respond affirmatively  
40 to probationary treatment;

41 (11) The imprisonment of the defendant would entail excessive  
42 hardship to himself or his dependents;

43 (12) The willingness of the defendant to cooperate with law  
44 enforcement authorities;

45 (13) The conduct of a youthful defendant was substantially  
46 influenced by another person more mature than the defendant.

1 c. (1) A plea of guilty by a defendant or failure to so plead  
2 shall not be considered in withholding or imposing a sentence of  
3 imprisonment.

4 (2) When imposing a sentence of imprisonment the court shall  
5 consider the defendant's eligibility for release under the law  
6 governing parole, including time credits awarded pursuant to Title  
7 30 of the Revised Statutes, in determining the appropriate term of  
8 imprisonment.

9 d. Presumption of imprisonment. The court shall deal with a  
10 person who has been convicted of a crime of the first or second  
11 degree, or a crime of the third degree where the court finds that the  
12 aggravating factor in paragraph (5), (14) or (15) of subsection a.  
13 applies, by imposing a sentence of imprisonment unless, having  
14 regard to the character and condition of the defendant, it is of the  
15 opinion that his imprisonment would be a serious injustice which  
16 overrides the need to deter such conduct by others.  
17 Notwithstanding the provisions of subsection e. of this section, the  
18 court shall deal with a person who has been convicted of theft of a  
19 motor vehicle or of the unlawful taking of a motor vehicle and who  
20 has previously been convicted of either offense by imposing a  
21 sentence of imprisonment unless, having regard to the character and  
22 condition of the defendant, it is of the opinion that his imprisonment  
23 would be a serious injustice which overrides the need to deter such  
24 conduct by others.

25 e. The court shall deal with a person convicted of an offense  
26 other than a crime of the first or second degree, who has not  
27 previously been convicted of an offense, without imposing a  
28 sentence of imprisonment unless, having regard to the nature and  
29 circumstances of the offense and the history, character and  
30 condition of the defendant, it is of the opinion that his imprisonment  
31 is necessary for the protection of the public under the criteria set  
32 forth in subsection a., except that this subsection shall not apply if  
33 the court finds that the aggravating factor in paragraph (5), (14) or  
34 (15) of subsection a. applies or if the person is convicted of any of  
35 the following crimes of the third degree: theft of a motor vehicle;  
36 unlawful taking of a motor vehicle; eluding; <sup>1</sup>**[negligent]** strict  
37 liability<sup>1</sup> vehicular homicide pursuant to section 1 of P.L. \_\_\_\_\_,  
38 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill; if the  
39 person is convicted of a crime of the third degree constituting use of  
40 a false government document in violation of subsection c. of section  
41 1 of P.L.1983, c.565 (C.2C:21-2.1); if the person is convicted of a  
42 crime of the third degree constituting distribution, manufacture or  
43 possession of an item containing personal identifying information in  
44 violation of subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-  
45 17.3); if the person is convicted of a crime of the third or fourth  
46 degree constituting bias intimidation in violation of N.J.S.2C:16-1;  
47 if the person is convicted of a crime of the third degree under  
48 paragraph (12) of subsection b. of N.J.S.2C:12-1 or section 2 of

1 P.L.1997, c.111 (C.2C:12-1.1); or if the person is convicted of a  
2 crime of the third or fourth degree under the provisions of section 1  
3 or 2 of P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

4 f. Presumptive Sentences. (1) Except for the crime of murder,  
5 unless the preponderance of aggravating or mitigating factors, as set  
6 forth in subsections a. and b., weighs in favor of a higher or lower  
7 term within the limits provided in N.J.S.2C:43-6, when a court  
8 determines that a sentence of imprisonment is warranted, it shall  
9 impose sentence as follows:

10 (a) To a term of 20 years for aggravated manslaughter or  
11 kidnapping pursuant to paragraph (1) of subsection c. of  
12 N.J.S.2C:13-1 when the offense constitutes a crime of the first  
13 degree;

14 (b) Except as provided in subparagraph (a) of this paragraph to a  
15 term of 15 years for a crime of the first degree;

16 (c) To a term of seven years for a crime of the second degree;

17 (d) To a term of four years for a crime of the third degree; and

18 (e) To a term of nine months for a crime of the fourth degree.

19 In imposing a minimum term pursuant to subsection b. of  
20 N.J.S.2C:43-6, the sentencing court shall specifically place on the  
21 record the aggravating factors set forth in this section which justify  
22 the imposition of a minimum term.

23 Unless the preponderance of mitigating factors set forth in  
24 subsection b. weighs in favor of a lower term within the limits  
25 authorized, sentences imposed pursuant to paragraph (1) of  
26 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life  
27 imprisonment. Unless the preponderance of aggravating and  
28 mitigating factors set forth in subsections a. and b. weighs in favor  
29 of a higher or lower term within the limits authorized, sentences  
30 imposed pursuant to paragraph (2) of subsection a. of N.J.S.2C:43-7  
31 shall have a presumptive term of 50 years' imprisonment; sentences  
32 imposed pursuant to paragraph (3) of subsection a. of N.J.S.2C:43-7  
33 shall have a presumptive term of 15 years' imprisonment; and  
34 sentences imposed pursuant to paragraph (4) of subsection a. of  
35 N.J.S.2C:43-7 shall have a presumptive term of seven years'  
36 imprisonment.

37 In imposing a minimum term pursuant to subsection b. of  
38 N.J.S.2C:43-7, the sentencing court shall specifically place on the  
39 record the aggravating factors set forth in this section which justify  
40 the imposition of a minimum term.

41 (2) In cases of convictions for crimes of the first or second  
42 degree where the court is clearly convinced that the mitigating  
43 factors substantially outweigh the aggravating factors and where the  
44 interest of justice demands, the court may sentence the defendant to  
45 a term appropriate to a crime of one degree lower than that of the  
46 crime for which he was convicted. If the court does impose  
47 sentence pursuant to this paragraph, or if the court imposes a  
48 noncustodial or probationary sentence upon conviction for a crime

1 of the first or second degree, such sentence shall not become final  
2 for 10 days in order to permit the appeal of such sentence by the  
3 prosecution.

4 g. Imposition of Noncustodial Sentences in Certain Cases. If  
5 the court, in considering the aggravating factors set forth in  
6 subsection a., finds the aggravating factor in paragraph (2), (5),  
7 (10), or (12) of subsection a. and does not impose a custodial  
8 sentence, the court shall specifically place on the record the  
9 mitigating factors which justify the imposition of a noncustodial  
10 sentence.

11 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-  
12 11), the presumption of imprisonment as provided in subsection d.  
13 of this section shall not preclude the admission of a person to the  
14 Intensive Supervision Program, established pursuant to the Rules  
15 Governing the Courts of the State of New Jersey.  
16 (cf: P.L.2015, c.98, s.5)

17

18 <sup>17</sup>. Section 1 of P.L.2006, c.28 (C.2B:12-17.2) is amended to  
19 read as follows:

20 1. a. In any matter concerning Title 39 of the Revised Statutes  
21 where death or serious bodily injury has occurred, regardless of  
22 whether the death or serious bodily injury is an element of the  
23 offense or violation, the Superior Court shall have exclusive  
24 jurisdiction over the offense or violation until such time that the  
25 Superior Court transfers the matter to the municipal court. For the  
26 purposes of this section, the term "serious bodily injury" shall have  
27 the meaning set forth in subsection b. of N.J.S.2C:11-1.

28 b. The Attorney General may develop guidelines establishing  
29 procedures to be followed for prosecutions involving violations of  
30 N.J.S.2C:11-4, N.J.S.2C:11-5, section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
31 (pending before the Legislature as this bill) or section 1 of  
32 P.L.1997, c.111 (C.2C:11-5.1) or criminal offenses involving  
33 serious bodily injury and underlying motor vehicle offenses arising  
34 from the same incident consistent with the provisions of P.L.2006,  
35 c.28 (C.2B:12-17.2 et al.).<sup>1</sup>  
36 (cf: P.L.2006, c.28, s.1)

37

38 <sup>18</sup>. N.J.S.2C:29-8 is amended to read as follows:

39 2C:29-8. Corrupting or Influencing a Jury.

40 Any person who, directly or indirectly, corrupts, influences or  
41 attempts to corrupt or influence a jury or juror to be more favorable  
42 to the one side than to the other by promises, persuasions,  
43 entreaties, threats, letters, money, entertainment or other sinister  
44 means; or any person who employs any unfair or fraudulent  
45 practice, art or contrivance to obtain a verdict, or attempts to  
46 instruct a jury or juror beforehand at any place or time, or in any  
47 manner or way, except in open court at the trial of the cause, by the

- 1 strength of the evidence, the arguments of the parties or their  
2 counsel, or the opinion or charge of the court is guilty of a crime.
- 3 a. Corrupting or influencing a jury is a crime of the first degree  
4 if the conduct occurs in connection with an official proceeding  
5 involving any of the following crimes, as enumerated in subsection  
6 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor  
7 employs force or threat of force:
- 8 (1) N.J.S.2C:11-3, murder;  
9 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;  
10 (3) N.J.S.2C:11-5, reckless vehicular homicide or [negligent]  
11 strict liability vehicular homicide under the provisions of P.L. \_\_\_\_\_,  
12 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill);  
13 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;  
14 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),  
15 disarming a law enforcement officer;  
16 (6) N.J.S.2C:13-1, kidnapping;  
17 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;  
18 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of  
19 subsection c. of N.J.S.2C:14-2, sexual assault;  
20 (9) N.J.S.2C:15-1, robbery;  
21 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;  
22 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated  
23 arson;  
24 (12) N.J.S.2C:18-2, burglary;  
25 (13) subsection a. of N.J.S.2C:20-5, extortion;  
26 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),  
27 booby traps in manufacturing or distribution facilities;  
28 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;  
29 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;  
30 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or  
31 possessing chemical weapons, biological agents or nuclear or  
32 radiological devices; or  
33 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first  
34 degree.
- 35 b. Corrupting or influencing a jury is a crime of the second  
36 degree if the actor employs force or threat of force and the conduct  
37 occurs in connection with an action which does not involve any of  
38 the crimes enumerated in subsection a. of this section.
- 39 c. Otherwise, corrupting or influencing a jury is a crime of the  
40 third degree, provided, however, that the presumption of  
41 nonimprisonment set forth in subsection e. of 2C:44-1 for persons  
42 who have not previously been convicted of an offense shall not  
43 apply.<sup>1</sup>  
44 (cf: P.L.2009, c.169, s.1)  
45
- 46 <sup>1</sup>9. N.J.S.2C:52-2 is amended to read as follows:  
47 2C:52-2. Indictable Offenses.

1       a. In all cases, except as herein provided, wherein a person has  
2 been convicted of a crime under the laws of this State and who has  
3 not been convicted of any prior or subsequent crime, whether within  
4 this State or any other jurisdiction, and has not been convicted of a  
5 disorderly persons or petty disorderly persons offense on more than  
6 two occasions may, after the expiration of a period of 10 years from  
7 the date of his most recent conviction, payment of fine, satisfactory  
8 completion of probation or parole, or release from incarceration for  
9 that crime or for any disorderly persons or petty disorderly persons  
10 offense, whichever is later, present an expungement application to  
11 the Superior Court in the county in which the conviction for the  
12 crime was adjudged, which contains a duly verified petition as  
13 provided in N.J.S.2C:52-7 for the criminal conviction sought to be  
14 expunged, and may also contain additional duly verified petitions  
15 for no more than two convictions for any disorderly persons or petty  
16 disorderly persons offenses, praying that the conviction, or  
17 convictions if applicable, and all records and information pertaining  
18 thereto be expunged. The petition for each conviction appended to  
19 an application shall comply with the requirements set forth in  
20 N.J.S.2C:52-1 et seq.

21       Notwithstanding the provisions of the preceding paragraph, a  
22 petition may be filed and presented, and the court may grant an  
23 expungement pursuant to this section, although less than 10 years  
24 has expired in accordance with the requirements of the preceding  
25 paragraph where the court finds:

26       (1) less than 10 years has expired from the satisfaction of a fine,  
27 but the ten-year time requirement is otherwise satisfied, and the  
28 court finds that the person substantially complied with any payment  
29 plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so  
30 due to compelling circumstances affecting his ability to satisfy the  
31 fine; or

32       (2) at least five years has expired from the date of his  
33 conviction, payment of fine, satisfactory completion of probation or  
34 parole, or release from incarceration, whichever is later; the person  
35 has not been convicted of a crime, disorderly persons offense, or  
36 petty disorderly persons offense since the time of the conviction;  
37 and the court finds in its discretion that expungement is in the  
38 public interest, giving due consideration to the nature of the  
39 offense, and the applicant's character and conduct since conviction.

40       In determining whether compelling circumstances exist for the  
41 purposes of paragraph (1) of this subsection, a court may consider  
42 the amount of the fine or fines imposed, the person's age at the time  
43 of the offense, the person's financial condition and other relevant  
44 circumstances regarding the person's ability to pay.

45       Although subsequent convictions for no more than two  
46 disorderly or petty disorderly persons offenses shall not be an  
47 absolute bar to relief, the nature of those conviction or convictions  
48 and the circumstances surrounding them shall be considered by the

1 court and may be a basis for denial of relief if they or either of them  
2 constitute a continuation of the type of unlawful activity embodied  
3 in the criminal conviction for which expungement is sought.

4 b. Records of conviction pursuant to statutes repealed by this  
5 Code for the crimes of murder, manslaughter, treason, anarchy,  
6 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,  
7 robbery, embracery, or a conspiracy or any attempt to commit any  
8 of the foregoing, or aiding, assisting or concealing persons accused  
9 of the foregoing crimes, shall not be expunged.

10 Records of conviction for the following crimes specified in the  
11 New Jersey Code of Criminal Justice shall not be subject to  
12 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
13 death by auto as specified in N.J.S.2C:11-5 and **[negligent]** strict  
14 liability vehicular homicide as specified in section 1 of P.L. \_\_\_\_\_,  
15 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);  
16 N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291  
17 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77  
18 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or  
19 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3  
20 (Aggravated Criminal Sexual Contact); if the victim is a minor,  
21 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the  
22 victim is a minor and the offender is not the parent of the victim,  
23 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False  
24 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson  
25 and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering  
26 the welfare of a child by engaging in sexual conduct which would  
27 impair or debauch the morals of the child, or causing the child other  
28 harm); paragraph (4) of subsection b. of N.J.S.2C:24-4  
29 (Photographing or filming a child in a prohibited sexual act);  
30 paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or  
31 permitting a child to engage in a prohibited sexual act);  
32 subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4  
33 (Distributing, possessing with intent to distribute or using a file-  
34 sharing program to store items depicting the sexual exploitation or  
35 abuse of a child); subparagraph (b) of paragraph (5) of subsection b.  
36 of N.J.S.2C:24-4 (Possessing or viewing items depicting the sexual  
37 exploitation or abuse of a child); N.J.S.2C:28-1 (Perjury);  
38 N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of  
39 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's  
40 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);  
41 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing  
42 or Possessing Chemical Weapons, Biological Agents or Nuclear or  
43 Radiological Devices); and conspiracies or attempts to commit such  
44 crimes.

45 Records of conviction for any crime committed by a person  
46 holding any public office, position or employment, elective or  
47 appointive, under the government of this State or any agency or  
48 political subdivision thereof and any conspiracy or attempt to

1 commit such a crime shall not be subject to expungement if the  
2 crime involved or touched such office, position or employment.

3 c. In the case of conviction for the sale or distribution of a  
4 controlled dangerous substance or possession thereof with intent to  
5 sell, expungement shall be denied except where the crimes involve:

6 (1) Marijuana, where the total quantity sold, distributed or  
7 possessed with intent to sell was 25 grams or less;

8 (2) Hashish, where the total quantity sold, distributed or  
9 possessed with intent to sell was five grams or less; or

10 (3) Any controlled dangerous substance provided that the  
11 conviction is of the third or fourth degree, where the court finds that  
12 expungement is consistent with the public interest, giving due  
13 consideration to the nature of the offense and the petitioner's  
14 character and conduct since conviction.

15 d. In the case of a State licensed physician or podiatrist  
16 convicted of an offense involving drugs or alcohol or pursuant to  
17 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
18 court shall notify the State Board of Medical Examiners upon  
19 receipt of a petition for expungement of the conviction and records  
20 and information pertaining thereto.<sup>1</sup>

21 (cf: P.L.2015, c.261, s.2)

22

23 <sup>1</sup>10. R.S.39:3-10 is amended to read as follows:

24 39:3-10. No person shall drive a motor vehicle on a public  
25 highway in this State unless the person is under supervision while  
26 participating in a behind-the-wheel driving course pursuant to  
27 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a  
28 validated permit, or a probationary or basic driver's license issued to  
29 that person in accordance with this article.

30 No person under 18 years of age shall be issued a basic license to  
31 drive motor vehicles, nor shall a person be issued a validated  
32 permit, including a validated examination permit, until the applicant  
33 has passed a satisfactory examination and other requirements as to  
34 the applicant's ability as an operator. The examination shall include  
35 a test of the applicant's vision, the applicant's ability to understand  
36 traffic control devices, the applicant's knowledge of safe driving  
37 practices, including the dangers of driving a vehicle in an  
38 aggressive manner, which shall include, but not be limited to,  
39 unexpectedly altering the speed of a vehicle, making improper or  
40 erratic traffic lane changes, disregarding traffic control devices,  
41 failing to yield the right of way, and following another vehicle too  
42 closely, and of the effects that ingestion of alcohol or drugs has on a  
43 person's ability to operate a motor vehicle, the applicant's  
44 knowledge of such portions of the mechanism of motor vehicles as  
45 is necessary to insure the safe operation of a vehicle of the kind or  
46 kinds indicated by the applicant, and of the laws and ordinary  
47 usages of the road. No person shall sit for an examination for any  
48 permit without exhibiting photo identification deemed acceptable

1 by the commission, unless that person is a high school student  
2 participating in a course of automobile driving education approved  
3 by the State Department of Education and conducted in a public,  
4 parochial, or private school of this State, pursuant to section 1 of  
5 P.L.1950, c.127 (C.39:3-13.1). The commission may waive the  
6 written law knowledge examination for any person 18 years of age  
7 or older possessing a valid driver's license issued by any other state,  
8 the District of Columbia, or the United States Territories of  
9 American Samoa, Guam, Puerto Rico, or the Virgin Islands. The  
10 commission shall be required to provide that person with a booklet  
11 that highlights those motor vehicle laws unique to New Jersey. A  
12 road test shall be required for a probationary license and serve as a  
13 demonstration of the applicant's ability to operate a vehicle of the  
14 class designated. No person shall sit for a road test unless that  
15 person exhibits photo identification deemed acceptable by the  
16 commission. A high school student who has completed a course of  
17 behind-the-wheel automobile driving education approved by the  
18 State Department of Education and conducted in a public, parochial,  
19 or private school of this State, who has been issued a special  
20 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-  
21 13.1) prior to January 1, 2003, shall not be required to exhibit photo  
22 identification in order to sit for a road test. The commission may  
23 waive the road test for any person 18 years of age or older  
24 possessing a valid driver's license issued by any other state, the  
25 District of Columbia, or the United States Territories of American  
26 Samoa, Guam, Puerto Rico, or the Virgin Islands. The road test  
27 shall be given on public streets, where practicable and feasible, but  
28 may be preceded by an off-street screening process to assess basic  
29 skills. The commission shall approve locations for the road test  
30 which pose no more than a minimal risk of injury to the applicant,  
31 the examiner, and other motorists. No new locations for the road  
32 test shall be approved unless the test can be given on public streets.

33 A person who successfully completes a road test for a  
34 motorcycle license or a motorcycle endorsement when operating a  
35 motorcycle or motorized scooter with an engine displacement of  
36 less than 231 cubic centimeters shall be issued a motorcycle license  
37 or endorsement restricting the person's operation of such vehicles to  
38 any motorcycle with an engine displacement of 500 cubic  
39 centimeters or less. A person who successfully completes a road  
40 test for a motorcycle license or motorcycle endorsement when  
41 operating a motorcycle with an engine displacement of 231 or more  
42 cubic centimeters shall be issued a motorcycle license or  
43 endorsement without any restriction as to engine displacement.  
44 Any person who successfully completes an approved motorcycle  
45 safety education course established pursuant to the provisions of  
46 section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a  
47 motorcycle license or endorsement without restriction as to engine  
48 displacement.

1 The commission shall issue a basic driver's license to operate a  
2 motor vehicle other than a motorcycle to a person over 18 years of  
3 age who previously has not been licensed to drive a motor vehicle  
4 in this State or another jurisdiction only if that person has: (1)  
5 operated a passenger automobile in compliance with the  
6 requirements of this title for not less than one year, not including  
7 any period of suspension or postponement, from the date of  
8 issuance of a probationary license pursuant to section 4 of  
9 P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two  
10 motor vehicle points; (3) not been convicted in the previous year for  
11 a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-  
12 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-  
13 5, section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
14 Legislature as this bill), subsection c. of N.J.S.2C:12-1, or any other  
15 motor vehicle-related violation the commission determines to be  
16 significant and applicable pursuant to regulation; and (4) passed an  
17 examination of the applicant's ability to operate a motor vehicle  
18 pursuant to this section.

19 The commission shall expand the driver's license examination by  
20 20%. The additional questions to be added shall consist solely of  
21 questions developed in conjunction with the Department of Health  
22 concerning the use of alcohol or drugs as related to highway safety.  
23 The commission shall develop, in conjunction with the Department  
24 of Health, supplements to the driver's manual which shall include  
25 information necessary to answer any question on the driver's license  
26 examination concerning alcohol or drugs as related to highway  
27 safety.

28 Up to 20 questions may be added to the examination on subjects  
29 to be determined by the commission that are of particular relevance  
30 to youthful drivers, including the dangers of driving a vehicle in an  
31 aggressive manner, which shall include, but not be limited to,  
32 unexpectedly altering the speed of a vehicle, making improper or  
33 erratic traffic lane changes, disregarding traffic control devices,  
34 failing to yield the right of way, and following another vehicle too  
35 closely, after consultation with the Director of the Division of  
36 Highway Traffic Safety in the Department of Law and Public  
37 Safety.

38 The commission shall expand the driver's license examination to  
39 include a question asking whether the applicant is aware of the  
40 provisions of the "Revised Uniform Anatomical Gift Act,"  
41 P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on  
42 the driver's license the intention to make a donation of body organs  
43 or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

44 The commission shall expand the driver's license examination to  
45 include a question asking whether the applicant is aware of the  
46 dangers of failing to comply with this State's motor vehicle traffic  
47 laws and the "STOP for Nikhil Safety Pledge" set forth in  
48 subsection e. of R.S.39:3-41.

1 Any person applying for a driver's license to operate a motor  
2 vehicle or motorized bicycle in this State shall surrender to the  
3 commission any current driver's license issued to the applicant by  
4 another state or jurisdiction upon the applicant's receipt of a driver's  
5 license for this State. The commission shall refuse to issue a  
6 driver's license if the applicant fails to comply with this provision.  
7 An applicant for a permit or license who is less than 18 years of  
8 age, and who holds a permit or license for a passenger automobile  
9 issued by another state or country that is valid or has expired within  
10 a time period designated by the commission, shall be subject to the  
11 permit and license requirements and penalties applicable to State  
12 permit and license applicants who are of the same age; except that if  
13 the other state or country has permit or license standards  
14 substantially similar to those of this State, the credentials of the  
15 other state or country shall be acceptable.

16 The commission shall create classified licensing of drivers  
17 covering the following classifications:

18 a. Motorcycles, except that for the purposes of this section,  
19 motorcycle shall not include any three-wheeled motor vehicle  
20 equipped with a single cab with glazing enclosing the occupant,  
21 seats similar to those of a passenger vehicle or truck, seat belts and  
22 automotive steering or any vehicle defined as a motorcycle pursuant  
23 to R.S.39:1-1 having a motor with a maximum piston displacement  
24 that is less than 50 cubic centimeters or a motor that is rated at no  
25 more than 1.5 brake horsepower with a maximum speed of no more  
26 than 35 miles per hour on a flat surface.

27 b. Omnibuses as classified by R.S.39:3-10.1 and school buses  
28 classified under N.J.S.18A:39-1 et seq.

29 c. (Deleted by amendment, P.L.1999, c.28).

30 d. All motor vehicles not included in classifications a. and b. A  
31 license issued pursuant to this classification d. shall be referred to  
32 as the "basic driver's license."

33 Every applicant for a license under classification b. shall be a  
34 holder of a basic driver's license. Any issuance of a license under  
35 classification b. shall be by endorsement on the basic driver's  
36 license.

37 A driver's license for motorcycles may be issued separately, but  
38 if issued to the holder of a basic driver's license, it shall be by  
39 endorsement on the basic driver's license. The holder of a basic  
40 driver's license or a separately issued motorcycle license shall be  
41 authorized to operate a motorcycle having a motor with a maximum  
42 piston displacement that is less than 50 cubic centimeters or a motor  
43 that is rated at no more than 1.5 brake horsepower with a maximum  
44 speed no more than 35 miles per hour on a flat surface.

45 The commission, upon payment of the lawful fee and after it or a  
46 person authorized by it has examined the applicant and is satisfied  
47 of the applicant's ability as an operator, may, in its discretion, issue  
48 a license to the applicant to drive a motor vehicle. The license shall

1 authorize him to drive any registered vehicle, of the kind or kinds  
2 indicated, and shall expire, except as otherwise provided, on the last  
3 day of the 48th calendar month following the calendar month in  
4 which such license was issued.

5 The commission may, at its discretion and for good cause shown,  
6 issue licenses which shall expire on a date fixed by it. If the  
7 commission issues a license to a person who has demonstrated  
8 authorization to be present in the United States for a period of time  
9 shorter than the standard period of the license, the commission shall  
10 fix the expiration date of the license at a date based on the period in  
11 which the person is authorized to be present in the United States  
12 under federal immigration laws. The commission may renew such a  
13 license only if it is demonstrated that the person's continued  
14 presence in the United States is authorized under federal law. The  
15 fee for licenses with expiration dates fixed by the commission shall  
16 be fixed by the commission in amounts proportionately less or  
17 greater than the fee herein established.

18 The required fee for a license for the 48-month period shall be as  
19 follows:

20 Motorcycle license or endorsement: \$18.

21 Omnibus or school bus endorsement: \$18.

22 Basic driver's license: \$18.

23 The commission shall waive the payment of fees for issuance of  
24 omnibus endorsements whenever an applicant establishes to the  
25 commission's satisfaction that said applicant will use the omnibus  
26 endorsement exclusively for operating omnibuses owned by a  
27 nonprofit organization duly incorporated under Title 15 or 16 of the  
28 Revised Statutes or Title 15A of the New Jersey Statutes.

29 The commission shall issue licenses for the following license  
30 period on and after the first day of the calendar month immediately  
31 preceding the commencement of such period, such licenses to be  
32 effective immediately.

33 All applications for renewals of licenses shall be made in a  
34 manner prescribed by the commission and in accordance with  
35 procedures established by it.

36 The commission in its discretion may refuse to grant a permit or  
37 license to drive motor vehicles to a person who is, in its estimation,  
38 not a proper person to be granted such a permit or license, but no  
39 defect of the applicant shall debar the applicant from receiving a  
40 permit or license unless it can be shown by tests approved by the  
41 commission that the defect incapacitates the applicant from safely  
42 operating a motor vehicle.

43 In addition to requiring an applicant for a driver's license to  
44 submit satisfactory proof of identity and age, the commission also  
45 shall require the applicant to provide, as a condition for obtaining a  
46 permit and license, satisfactory proof that the applicant's presence  
47 in the United States is authorized under federal law.

1 If the commission has reasonable cause to suspect that any  
2 document presented by an applicant as proof of identity, age or  
3 legal residency is altered, false or otherwise invalid, the  
4 commission shall refuse to grant the permit or license until such  
5 time as the document may be verified by the issuing agency to the  
6 commission's satisfaction.

7 A person violating this section shall be subject to a fine not  
8 exceeding \$500 or imprisonment in the county jail for not more  
9 than 60 days, but if that person has never been licensed to drive in  
10 this State or any other jurisdiction, the applicant shall be subject to  
11 a fine of not less than \$200 and, in addition, the court shall issue an  
12 order to the commission requiring the commission to refuse to issue  
13 a license to operate a motor vehicle to the person for a period of not  
14 less than 180 days. The penalties provided for by this paragraph  
15 shall not be applicable in cases where failure to have actual  
16 possession of the operator's license is due to an administrative or  
17 technical error by the commission.

18 Nothing in this section shall be construed to alter or extend the  
19 expiration of any license issued prior to the date this amendatory  
20 and supplementary act becomes operative.<sup>1</sup>

21 (cf: P.L.2015, c.78, s.1)

22

23 <sup>1</sup>11. R.S.39:3-13 is amended to read as follows:

24 39:3-13. The chief administrator may, in the chief administrator's  
25 discretion, issue to a person over 17 years of age an examination  
26 permit, under the hand and seal of the chief administrator, allowing  
27 such person, for the purpose of fitting the person to become a  
28 licensed driver, to operate a designated class of motor vehicles  
29 other than passenger automobiles and motorcycles for a specified  
30 period of not more than 90 days, while in the company and under  
31 the supervision of a driver licensed to operate such designated class  
32 of motor vehicles.

33 The chief administrator, in the chief administrator's discretion,  
34 may issue for a specified period of not less than one year a  
35 passenger automobile or motorcycle-only examination permit to a  
36 person over 17 years of age regardless of whether a person has  
37 completed a course of behind-the-wheel automobile driving  
38 education pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1).  
39 An examination permit applicant who is under 18 years of age shall  
40 obtain the signature of a parent or guardian for submission to the  
41 commission on a form prescribed by the chief administrator. The  
42 chief administrator shall postpone for six months the driving  
43 privileges of any person who submits a fraudulent signature for a  
44 parent or guardian.

45 For six months immediately following the validation of an  
46 examination permit, and until the holder passes the road test, the  
47 holder who is less than 21 years of age shall operate the passenger  
48 automobile only when accompanied by, and under the supervision

1 of, a New Jersey licensed driver who is at least 21 years of age and  
2 has been licensed to drive a passenger automobile for not less than  
3 three years. The holder of an examination permit who is at least 21  
4 years of age shall operate the passenger automobile for the first  
5 three months under such supervision and until the holder passes the  
6 road test. The supervising driver of the passenger automobile shall  
7 sit in the front seat of the vehicle. Whenever operating a vehicle  
8 while in possession of an examination permit, the holder of the  
9 permit shall operate the passenger automobile with only one  
10 additional passenger in the vehicle excluding dependents of the  
11 permit holder, except that this passenger restriction shall not apply  
12 when the permit holder is at least 21 years of age or when the  
13 permit holder is accompanied by a parent or guardian. Further, the  
14 holder of the passenger automobile permit who is less than 21 years  
15 of age shall not drive during the hours between 11:01 p.m. and 5  
16 a.m.; provided, however, that this condition may be waived for an  
17 emergency which, in the judgment of local police, is of sufficient  
18 severity and magnitude to substantially endanger the health, safety,  
19 welfare, or property of a person, or for any bona fide employment  
20 or religion-related activity if the employer or appropriate religious  
21 authority provides written verification of such activity in a manner  
22 provided for by the chief administrator. The holder of the  
23 examination permit shall not use any hand-held or hands-free  
24 interactive wireless communication device, except in an emergency,  
25 while operating a moving passenger automobile on a public road or  
26 highway. "Use" shall include, but not be limited to, talking or  
27 listening on any hand-held or hands-free interactive wireless  
28 communication device or operating its keys, buttons, or other  
29 controls. The passenger automobile permit holder shall ensure that  
30 all occupants of the vehicle are secured in a properly adjusted and  
31 fastened seat belt or child restraint system.

32 The holder of an examination permit subject to the provisions of  
33 section 1 of P.L.1977, c.23 (C.39:3-10b) shall not operate a  
34 motorcycle at any time from a half-hour after sunset to a half-hour  
35 before sunrise. A motorcycle operated by the holder of an  
36 examination permit shall carry only the operator and shall not be  
37 operated on any toll road over which the New Jersey Turnpike  
38 Authority or the South Jersey Transportation Authority has  
39 jurisdiction or on any limited-access interstate highway.

40 The holder of any examination permit shall not operate a  
41 motorcycle having a motor with a maximum piston displacement  
42 that is less than 50 cubic centimeters or a motor that is rated at no  
43 more than 1.5 brake horsepower with a maximum speed of no more  
44 than 35 miles per hour on a flat surface at anytime from a half-hour  
45 after sunset to a half-hour before sunrise and shall not operate the  
46 motorcycle with any other passenger. The holder of any  
47 examination permit shall not operate such a motorcycle upon

1 limited-access interstate highways or public roads or highways with  
2 a posted speed limit greater than 35 miles per hour.

3 An applicant for an examination permit subject to the provisions  
4 of section 1 of P.L.1977, c.23 (C.39:3-10b), who is less than 18  
5 years of age, shall be required to successfully complete a  
6 motorcycle safety education course established pursuant to the  
7 provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) as a  
8 condition for obtaining a motorcycle license or endorsement.

9 The chief administrator shall provide the holder of an  
10 examination permit with two removable, transferable, highly  
11 visible, reflective decals indicating that the driver of the vehicle  
12 may be the holder of an examination permit. The decals shall be  
13 designed by the chief administrator, in consultation with the  
14 Division of Highway Traffic Safety in the Department of Law and  
15 Public Safety. The chief administrator may charge a fee for the  
16 decals not to exceed the actual cost of producing and distributing  
17 the decals. The decals shall be displayed in a manner prescribed by  
18 the chief administrator, in consultation with the Division of  
19 Highway Traffic Safety in the Department of Law and Public  
20 Safety, and shall be clearly visible to law enforcement officers. The  
21 holder of an examination permit shall not operate a vehicle unless  
22 the decals are displayed. The decal shall be removed once the  
23 driver's examination permit period has ended.

24 When notified by a court of competent jurisdiction that an  
25 examination permit holder has been convicted of a violation which  
26 causes the permit holder to accumulate more than two motor vehicle  
27 points or has been convicted of a violation of R.S.39:4-50; section 2  
28 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14);  
29 R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. , c. (C. )  
30 (pending before the Legislature as this bill), subsection c. of  
31 N.J.S.2C:12-1; or any other motor vehicle-related law the chief  
32 administrator deems significant and applicable pursuant to  
33 regulation, in addition to any other penalty that may be imposed,  
34 the chief administrator shall, without the exercise of discretion or a  
35 hearing, suspend the examination permit holder's examination  
36 permit for 90 days. The chief administrator shall restore the permit  
37 following the term of the permit suspension if the permit holder  
38 satisfactorily completes a remedial training course of not less than  
39 four hours which may be given by the commission, a driving school  
40 licensed by the chief administrator pursuant to section 2 of  
41 P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization  
42 approved by the chief administrator. The course shall be subject to  
43 oversight by the commission according to its guidelines. The  
44 permit holder shall also remit a course fee prior to the  
45 commencement of the course. The chief administrator also shall  
46 postpone without the exercise of discretion or a hearing the issuance  
47 of a basic license for 90 days if the chief administrator is notified by  
48 a court of competent jurisdiction that the examination permit

1 holder, after completion of the remedial training course, has been  
2 convicted of any motor vehicle violation which results in the  
3 imposition of any motor vehicle points or has been convicted of a  
4 violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-  
5 50.4a); P.L.1992, c.182 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-  
6 5, subsection c. of N.J.S.2C:12-1 or any other motor vehicle-related  
7 law the chief administrator deems significant and applicable  
8 pursuant to regulation. When the chief administrator is notified by  
9 a court of competent jurisdiction that an examination permit holder  
10 has been convicted of any alcohol or drug-related offense unrelated  
11 to the operation of a motor vehicle and is not otherwise subject to  
12 any other suspension penalty therefor, the chief administrator shall,  
13 without the exercise of discretion or a hearing, suspend the  
14 examination permit for six months.

15 An examination permit for a motorcycle or a commercial motor  
16 vehicle issued to a handicapped person, as determined by the New  
17 Jersey Motor Vehicle Commission after consultation with the  
18 Department of Education, shall be valid for nine months or until the  
19 completion of the road test portion of his license examination,  
20 whichever period is shorter.

21 Each permit shall be sufficient license for the person to operate  
22 such designated class of motor vehicles in this State during the  
23 period specified, while in the company of and under the control of a  
24 driver licensed by this State to operate such designated class of  
25 motor vehicles, or, in the case of a commercial driver license  
26 permit, while in the company of and under the control of a holder of  
27 a valid commercial driver license for the appropriate license class  
28 and with the appropriate endorsements issued by this or any other  
29 state. Such person, as well as the licensed driver, except for a motor  
30 vehicle examiner administering a driving skills test, shall be held  
31 accountable for all violations of this subtitle committed by such  
32 person while in the presence of the licensed driver. In addition to  
33 requiring an applicant for an examination permit to submit  
34 satisfactory proof of identity and age, the chief administrator also  
35 shall require the applicant to provide, as a condition for obtaining  
36 the permit, satisfactory proof that the applicant's presence in the  
37 United States is authorized under federal law. If the chief  
38 administrator has reasonable cause to suspect that any document  
39 presented by an applicant as proof of identity, age, or legal  
40 residency is altered, false, or otherwise invalid, the chief  
41 administrator shall refuse to grant the permit until such time as the  
42 document may be verified by the issuing agency to the chief  
43 administrator's satisfaction.

44 The holder of an examination permit shall be required to take a  
45 road test in order to obtain a probationary license. No road test for  
46 any person who has been issued an examination permit to operate a  
47 passenger vehicle shall be given unless the person has met the  
48 requirements of this section. No road test for a probationary license

1 shall be given unless the applicant has first secured an examination  
2 permit and no such road test shall be scheduled for an applicant  
3 who has secured an examination permit for a passenger vehicle or a  
4 motorcycle for which an endorsement is not required until at least  
5 six months for an applicant under 21 years of age or three months  
6 for an applicant 21 years of age or older shall have elapsed  
7 following the validation of the examination permit for practice  
8 driving or, in the case of an examination permit for other vehicles,  
9 until 20 days have elapsed. In the case of an omnibus endorsement  
10 or school bus, no road test shall be scheduled until at least 10 days  
11 shall have elapsed. Every applicant for an examination permit to  
12 qualify for an omnibus endorsement or an articulated vehicle  
13 endorsement shall be a holder of a valid basic driver's license.

14 The required fees for special learner's permits and examination  
15 permits shall be as follows:

- 16 Basic driver's license.....up to \$10
- 17 Motorcycle license or endorsement.....\$ 5
- 18 Omnibus or school bus endorsement.....\$25

19 The chief administrator shall waive the payment of fees for  
20 issuance of examination permits for omnibus endorsements  
21 whenever the applicant establishes to the chief administrator's  
22 satisfaction that said applicant will use the omnibus endorsement  
23 exclusively for operating omnibuses owned by a nonprofit  
24 organization duly incorporated under Title 15 or 16 of the Revised  
25 Statutes or Title 15A of the New Jersey Statutes.

26 The specified period for which a permit is issued may be  
27 extended for not more than an additional 60 days, without payment  
28 of an added fee, upon application made by the holder thereof, where  
29 the holder has applied to take the examination for a driver's license  
30 prior to the expiration of the original period for which the permit  
31 was issued and the chief administrator was unable to schedule an  
32 examination during said period.

33 As a condition for the issuance of an examination permit under  
34 this section, the chief administrator shall secure a digitized picture  
35 of the applicant. The picture shall be stored in a manner prescribed  
36 by the chief administrator and may be displayed on the examination  
37 permit.

38 The chief administrator may require that whenever a person to  
39 whom an examination permit has been issued has reconstructive or  
40 cosmetic surgery which significantly alters the person's facial  
41 features, the person shall notify the chief administrator who may  
42 require the picture of the person to be updated.

43 Specific use of the examination permit and any information  
44 stored or encoded, electronically or otherwise, in relation thereto  
45 shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.) and  
46 the federal Driver's Privacy Protection Act of 1994, Pub.L.103-322.  
47 Notwithstanding the provisions of any other law to the contrary, the

1 digitized picture or any access thereto or any use thereof shall not  
2 be sold, leased, or exchanged for value.<sup>1</sup>

3 (cf: P.L.2011, c.13, s.3)

4  
5 <sup>1</sup>12. Section 6 of P.L.1977, c.25 (C.39:3-13.2a) is amended to  
6 read as follows:

7 6. a. Any person to whom a special learner's permit has been  
8 issued pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1), upon  
9 successful completion of a State approved written examination, eye  
10 examination, and an approved minimum six-hour behind-the-wheel  
11 driving course, shall be entitled to retain the special learner's permit  
12 in his own possession. The special learner's permit shall be  
13 validated by the commission for the purpose of driving a motor  
14 vehicle on a public highway in this State after the holder has  
15 successfully met the necessary examination requirements, and upon  
16 the successful completion of a behind-the-wheel driving course.  
17 Such person may operate a motor vehicle of the class for which a  
18 basic driver's license is required except during the hours between  
19 11:01 p.m. and 5:00 a.m. while in the company and under the  
20 supervision, from the front passenger seat, of a licensed motor  
21 vehicle driver of this State who is over 21 years of age and has been  
22 licensed to drive a passenger automobile for at least three years.  
23 Such special permit shall be valid until such person's seventeenth  
24 birthday or until he qualifies for a probationary license. Except  
25 during an instructional period of a behind-the-wheel driving course,  
26 the holder of a special permit shall operate a passenger automobile  
27 with only the following passengers: (1) the supervising passenger;  
28 (2) any parent, guardian, or dependent of the special permit holder;  
29 and (3) one additional passenger. The holder of the special learner's  
30 permit shall not use any hand-held or hands-free interactive  
31 wireless communication device, except in an emergency, while  
32 operating a moving passenger automobile on a public road or  
33 highway. "Use" shall include, but not be limited to, talking or  
34 listening on any hand-held or hands-free interactive wireless  
35 communication device or operating its keys, buttons, or other  
36 controls. All occupants of the automobile shall be secured in a  
37 properly adjusted and fastened seat belt or child restraint system.

38 The chief administrator shall provide the holder of a special  
39 learner's permit with two removable, transferable, highly visible,  
40 reflective decals indicating that the driver of the vehicle may be the  
41 holder of a special learner's permit. The decals shall be designed by  
42 the chief administrator, in consultation with the Division of  
43 Highway Traffic Safety in the Department of Law and Public  
44 Safety. The chief administrator may charge a fee for the decals not  
45 to exceed the actual cost of producing and distributing the decals.  
46 The decals shall be displayed in a manner prescribed by the chief  
47 administrator, in consultation with the Division of Highway Traffic  
48 Safety in the Department of Law and Public Safety, and shall be

1 clearly visible to law enforcement officers. The holder of a special  
2 learner's permit shall not operate a vehicle unless the decals are  
3 displayed. The decal shall be removed once the driver's special  
4 learner's permit period has ended.

5 b. When notified by a court of competent jurisdiction that a  
6 special learner's permit holder has been convicted of a violation  
7 which causes the permit holder to accumulate more than two motor  
8 vehicle points or has been convicted of a violation of R.S.39:4-50;  
9 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189  
10 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. \_\_\_\_\_,  
11 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
12 subsection c. of N.J.S.2C:12-1; or any other motor vehicle-related  
13 law the chief administrator determines to be significant and  
14 applicable pursuant to regulation, and in addition to any other  
15 penalty that may be imposed, the chief administrator shall, without  
16 the exercise of discretion or a hearing, suspend the holder's special  
17 learner's permit for 90 days. The chief administrator shall restore  
18 the permit following the term of the permit suspension if the permit  
19 holder, regardless of age, satisfactorily completes a remedial  
20 training course of not less than four hours which may be given by  
21 the commission, a driving school licensed by the chief administrator  
22 pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any  
23 Statewide safety organization approved by the chief administrator.  
24 The course shall be administered pursuant to rules and regulations  
25 promulgated by the chief administrator and subject to oversight by  
26 the commission. The authority of the chief administrator to  
27 suspend, revoke, or deny issuance of an initial or renewal license to  
28 operate a driving school or an instructor's license, and to assess  
29 fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to  
30 any violations related to the administration of a remedial training  
31 course. The permit holder shall also remit a course fee prior to the  
32 commencement of the course. If, after completion of the remedial  
33 training course, the chief administrator is notified by a court of  
34 competent jurisdiction that the special learner's permit holder has  
35 been convicted of any motor vehicle violation which results in the  
36 imposition of any motor vehicle points or has been convicted of a  
37 violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-  
38 50.4a); P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-  
39 5; subsection c. of N.J.S.2C:12-1; or any other motor vehicle-  
40 related law the chief administrator deems significant and applicable  
41 pursuant to regulation, the chief administrator, without the exercise  
42 of discretion or a hearing, shall also postpone the issuance of a  
43 basic license for 90 days. When the chief administrator is notified  
44 by a court of competent jurisdiction that a special learner's permit  
45 holder has been convicted of any alcohol or drug-related offense  
46 unrelated to the operation of a motor vehicle and he is not otherwise  
47 subject to any other suspension penalty therefor, the chief

1 administrator shall, without the exercise of discretion or a hearing,  
2 suspend the special learner's permit for six months.<sup>1</sup>

3 (cf: P.L.2009, c.38, s.8)

4

5 <sup>1</sup>13. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to  
6 read as follows:

7 4. a. The holder of a special learner's permit shall be entitled to  
8 a probationary driver's license (1) upon attaining the age of 17  
9 years, (2) upon the satisfactory completion of an approved behind-  
10 the-wheel driver training course as indicated upon the face of the  
11 special permit over the signature of the principal of the school or  
12 the person operating the driving school in which the course was  
13 conducted, (3) upon the completion of six months' driving  
14 experience with a validated special learner's permit in compliance  
15 with the provisions of section 6 of P.L.1977, c.25 (C.39:3-13.2a),  
16 and (4) upon passing the road test pursuant to R.S.39:3-10.

17 b. The holder of a probationary license shall be permitted to  
18 operate the passenger automobile with only one additional  
19 passenger in the vehicle besides any dependent of the probationary  
20 license holder, except that this passenger restriction shall not apply  
21 when the holder of the probationary license is at least 21 years of  
22 age or the probationary license holder is accompanied by a parent or  
23 guardian. Further, the holder of the probationary license who is  
24 under 21 years of age shall not drive during the hours between  
25 11:01 p.m. and 5 a.m.; provided however, that this condition may  
26 be waived for an emergency which, in the judgment of local police,  
27 is of sufficient severity and magnitude to substantially endanger the  
28 health, safety, welfare, or property of a person or for any bona fide  
29 employment or religion-related activity if the employer or  
30 appropriate religious authority provides written verification of such  
31 activity in a manner provided for by the chief administrator.

32 c. The holder of the probationary license shall not use any  
33 hand-held or hands-free interactive wireless communication device,  
34 except in an emergency, while operating a moving passenger  
35 automobile on a public road or highway. "Use" shall include, but  
36 not be limited to, talking or listening on any hand-held or hands-  
37 free interactive wireless communication device or operating its  
38 keys, buttons, or other controls. In addition, the holder of the  
39 probationary license shall ensure that all occupants of the vehicle  
40 are secured in a properly adjusted and fastened seat belt or child  
41 restraint system.

42 d. In addition to any other penalties provided under law, the  
43 holder of a probationary license who accumulates more than two  
44 motor vehicle points or is convicted of a violation of R.S.39:4-50;  
45 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189  
46 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. \_\_\_\_\_,  
47 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill);  
48 subsection c. of N.J.S.2C:12-1; or any other motor vehicle law the

1 chief administrator deems to be significant and applicable pursuant  
2 to regulation shall, for the first violation, be required to  
3 satisfactorily complete a remedial training course of not less than  
4 four hours which may be given by the commission, a driving school  
5 licensed by the chief administrator pursuant to section 2 of  
6 P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization  
7 approved by the chief administrator. The course shall be  
8 administered pursuant to rules and regulations promulgated by the  
9 chief administrator and subject to oversight by the commission.  
10 The authority of the chief administrator to suspend, revoke, or deny  
11 issuance of an initial or renewal license to operate a driving school  
12 or an instructor's license, and to assess fines, pursuant to P.L.1951,  
13 c.216 (C.39:12-1 et seq.) shall apply to any violations related to the  
14 administration of a remedial training course. The license holder  
15 shall also remit a course fee prior to the commencement of the  
16 course.

17 e. When notified by a court of competent jurisdiction that a  
18 probationary license holder has been convicted of a second or  
19 subsequent violation, in addition to any other penalties provided  
20 under law, the chief administrator shall, without the exercise of  
21 discretion or a hearing, suspend the probationary license for three  
22 months, and shall postpone eligibility for a basic license for an  
23 equivalent period. In addition, when the chief administrator is  
24 notified by a court of competent jurisdiction that a probationary  
25 license holder has been convicted of any alcohol or drug-related  
26 offense unrelated to the operation of a motor vehicle, and he is not  
27 otherwise subject to any other suspension penalty therefor, the chief  
28 administrator shall, without the exercise of discretion or a hearing,  
29 suspend the probationary license for six months.

30 f. The chief administrator shall provide the holder of a  
31 probationary license with two removable, transferable, highly  
32 visible, reflective decals indicating that the driver of the vehicle  
33 may be the holder of a probationary license. The decals shall be  
34 designed by the chief administrator, in consultation with the  
35 Division of Highway Traffic Safety in the Department of Law and  
36 Public Safety. The chief administrator may charge a fee for the  
37 decals not to exceed the actual cost of producing and distributing  
38 the decals. The decals shall be displayed in a manner prescribed by  
39 the chief administrator, in consultation with the Division of  
40 Highway Traffic Safety in the Department of Law and Public  
41 Safety, and shall be clearly visible to law enforcement officers. The  
42 holder of a probationary license shall not operate a vehicle unless  
43 the decals are displayed. The decal shall be removed once the  
44 driver's probationary license period has ended.

45 g. A probationary license may be sent by mail and shall be  
46 clearly identifiable and distinguishable in appearance from a basic  
47 license by any name, mark, color, or device deemed appropriate by

1 the chief administrator.<sup>1</sup>

2 (cf: P.L.2009, c.38, s.9)

3

4 <sup>1</sup>14. Section 3 of P.L.1959, c.56 (C.39:3-33.5) is amended to  
5 read as follows:

6 3. Except as provided for courtesy marks in section 2 of  
7 P.L.2000, c.15 (C.39:3-33.5a), no particular identifying mark or  
8 special organization license plate issued pursuant to P.L.1987, c.374  
9 (C.39:3-27.35) may be issued to any applicant who:

10 (a) for the 10-year period next preceding the date of application  
11 for a particular identifying mark or special organization license  
12 plate has been convicted of a violation of either section 39:4-50, or  
13 section 39:4-96 of this Title or section 2 of P.L.1966, c.142 (C.39:4-  
14 50.2) or has been convicted of a violation of a law of a substantially  
15 similar nature in another jurisdiction; or

16 (b) has been convicted of a violation of N.J.S.2C:11-5 or section  
17 1 of P.L. , c. (C. ) (pending before the Legislature as this  
18 bill); or

19 (c) for the two-year period next preceding his application for a  
20 particular identifying mark or a special organization license plate  
21 has had his driving privileges in this State or in another jurisdiction  
22 revoked or suspended for any reason whatsoever.<sup>1</sup>

23 (cf: P.L.2000, c.15, s.1)

24

25 <sup>1</sup>15. Section 2 of P.L.2000, c.15 (C.39:3-33.5a) is amended to  
26 read as follows:

27 2. No courtesy mark may be issued to any applicant who:

28 a. has been convicted of a violation of either section 39:4-50,  
29 or section 39:4-96 of this Title or section 2 of P.L.1966, c.142  
30 (C.39:4-50.2) or has been convicted of a violation of a law of a  
31 substantially similar nature in another jurisdiction; or

32 b. has been convicted of a violation of N.J.S.2C:11-5 or section  
33 1 of P.L. , c. (C. ) (pending before the Legislature as this  
34 bill); or

35 c. for the two-year period next preceding his application for a  
36 courtesy mark has had his driving privileges in this State or in  
37 another jurisdiction revoked or suspended for any reason  
38 whatsoever.<sup>1</sup>

39 (cf: P.L.2000, c.15, s.2)

40

41 <sup>1</sup>16. Section 7 of P.L.2011, c.13 (C.39:3-76.11) is amended to  
42 read as follows:

43 7. A motorcycle having a motor with a maximum piston  
44 displacement that is less than 50 cubic centimeters or a motor that is  
45 rated at no more than 1.5 brake horsepower with a maximum speed  
46 of no more than 35 miles per hour on a flat surface shall not be  
47 operated upon limited-access interstate highways or public roads or  
48 highways with posted speed limits greater than 35 miles per hour.

1 Every person operating a motorcycle upon a public road or  
2 highway shall be subject to all of the duties applicable to the driver  
3 of a vehicle under chapter 4 of Title 39 of the Revised Statutes  
4 **[and]** , N.J.S.2C:11-5 , section 1 of P.L. \_\_\_\_\_ , c. \_\_\_\_\_ (C. \_\_\_\_\_ )  
5 (pending before the Legislature as this bill) and all amendments and  
6 supplements thereto.<sup>1</sup>

7 (cf: P.L.2011, c.13, s.7)

8  
9 <sup>1</sup>17. Section 2 of P.L.2003, c.23 (C.39:5-54) is amended to read  
10 as follows:

11 2. Whenever a person with diplomatic immunity is stopped by  
12 a State, county or municipal law enforcement officer who has  
13 probable cause to believe that the person has violated N.J.S.2C:11-  
14 5, section 1 of P.L. \_\_\_\_\_ , c. \_\_\_\_\_ (C. \_\_\_\_\_ ) (pending before the  
15 Legislature as this bill), subsection c. of N.J.S.2C:12-1, R.S.39:4-  
16 50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or section 2 of  
17 P.L.1972, c.197 (C.39:6B-2), or has committed a motor vehicle  
18 moving violation, the law enforcement officer shall:

19 a. As soon as practicable, contact the United States Department  
20 of State office to verify the driver's status and immunity;

21 b. Record all relevant information from the person's driver's  
22 license or identification card, including a driver's license or  
23 identification card issued by the United States Department of State;

24 c. Within five working days after the date of the stop, forward  
25 to the Division of Motor Vehicles the following information:

26 (1) A vehicle accident report if the person was involved in an  
27 accident;

28 (2) A copy of any citation or other charging document that was  
29 issued, if any; and

30 (3) A written report describing the incident if no citation or  
31 charging document was issued.<sup>1</sup>

32 (cf: P.L.2003, c.23, s.2)

33  
34 <sup>1</sup>**[4.] 18.**<sup>1</sup> This bill shall take effect immediately.

35  
36  
37  
38  
39 Establishes new crime of strict liability vehicular homicide;  
40 renames existing vehicular homicide as reckless vehicular  
41 homicide; designated as Ralph and David's Law.

# ASSEMBLY, No. 3686

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 12, 2016

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Establishes crime of negligent vehicular homicide; designated as Ralph and David's Law.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/13/2016)

1 AN ACT concerning negligent vehicular homicide, designating the  
2 act as “Ralph and David’s Law,” supplementing chapter 11 of  
3 Title 2C of the New Jersey Statutes, and amending N.J.S.2C:11-5  
4 and N.J.S.2C:44-1.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) a. Criminal homicide constitutes negligent  
10 vehicular homicide when it is caused by negligently driving a  
11 vehicle in violation of R.S.39:4-50 or vessel in violation of section  
12 3 of P.L.1952, c.157 (C.12:7-46).

13 b. Negligent vehicular homicide is a crime of the third degree,  
14 but the presumption of nonimprisonment set forth in subsection e.  
15 of N.J.S.2C:44-1 shall not apply to persons convicted of negligent  
16 vehicular homicide.

17  
18 2. N.J.S.2C:11-5 is amended to read as follows:  
19 2C:11-5. Death by auto or vessel.

20 a. Criminal homicide constitutes reckless vehicular homicide  
21 when it is caused by driving a vehicle or vessel recklessly.

22 Proof that the defendant fell asleep while driving or was driving  
23 after having been without sleep for a period in excess of 24  
24 consecutive hours may give rise to an inference that the defendant  
25 was driving recklessly. Proof that the defendant was driving while  
26 intoxicated in violation of R.S.39:4-50 or was operating a vessel  
27 under the influence of alcohol or drugs in violation of section 3 of  
28 P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the  
29 defendant was driving recklessly. Proof that the defendant was  
30 operating a hand-held wireless telephone while driving a motor  
31 vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3)  
32 may give rise to an inference that the defendant was driving  
33 recklessly. Nothing in this section shall be construed to in any way  
34 limit the conduct or conditions that may be found to constitute  
35 driving a vehicle or vessel recklessly.

36 b. Except as provided in paragraph (3) of this subsection,  
37 reckless vehicular homicide is a crime of the second degree.

38 (1) If the defendant was operating the auto or vessel while under  
39 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
40 habit-producing drug, or with a blood alcohol concentration at or  
41 above the prohibited level as prescribed in R.S.39:4-50, or if the  
42 defendant was operating the auto or vessel while his driver's license  
43 or reciprocity privilege was suspended or revoked for any violation  
44 of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
45 **【Director】** Chief Administrator of the **【Division of Motor**

**EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Vehicles] New Jersey Motor Vehicle Commission pursuant to  
2 P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation  
3 of R.S.39:4-96, the defendant shall be sentenced to a term of  
4 imprisonment by the court. The term of imprisonment shall include  
5 the imposition of a minimum term. The minimum term shall be  
6 fixed at, or between, one-third and one-half of the sentence imposed  
7 by the court or three years, whichever is greater, during which the  
8 defendant shall be ineligible for parole.

9 (2) The court shall not impose a mandatory sentence pursuant to  
10 paragraph (1) of this subsection unless the grounds therefor have  
11 been established at a hearing. At the hearing, which may occur at  
12 the time of sentencing, the prosecutor shall establish by a  
13 preponderance of the evidence that the defendant was operating the  
14 auto or vessel while under the influence of any intoxicating liquor,  
15 narcotic, hallucinogenic or habit-producing drug, or with a blood  
16 alcohol concentration at or above the level prescribed in R.S.39:4-  
17 50 or that the defendant was operating the auto or vessel while his  
18 driver's license or reciprocity privilege was suspended or revoked  
19 for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512  
20 (C.39:4-50.4a), by the **[Director]** Chief Administrator of the  
21 **[Division of Motor Vehicles]** New Jersey Motor Vehicle  
22 Commission pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by  
23 the court for a violation of R.S.39:4-96. In making its findings, the  
24 court shall take judicial notice of any evidence, testimony or  
25 information adduced at the trial, plea hearing, or other court  
26 proceedings and shall also consider the presentence report and any  
27 other relevant information.

28 (3) **[Vehicular]** Reckless vehicular homicide is a crime of the  
29 first degree if the defendant was operating the auto or vessel while  
30 in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
31 50.4a) while:

32 (a) on any school property used for school purposes which is  
33 owned by or leased to any elementary or secondary school or school  
34 board, or within 1,000 feet of such school property;

35 (b) driving through a school crossing as defined in R.S.39:1-1 if  
36 the municipality, by ordinance or resolution, has designated the  
37 school crossing as such; or

38 (c) driving through a school crossing as defined in R.S.39:1-1  
39 knowing that juveniles are present if the municipality has not  
40 designated the school crossing as such by ordinance or resolution.

41 A map or true copy of a map depicting the location and  
42 boundaries of the area on or within 1,000 feet of any property used  
43 for school purposes which is owned by or leased to any elementary  
44 or secondary school or school board produced pursuant to section 1  
45 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under  
46 subparagraph (a) of this paragraph.

47 It shall be no defense to a prosecution for a violation of  
48 subparagraph (a) or (b) of this paragraph that the defendant was

1 unaware that the prohibited conduct took place while on or within  
2 1,000 feet of any school property or while driving through a school  
3 crossing. Nor shall it be a defense to a prosecution under  
4 subparagraph (a) or (b) of this paragraph that no juveniles were  
5 present on the school property or crossing zone at the time of the  
6 offense or that the school was not in session.

7 (4) If the defendant was operating the auto or vessel in violation  
8 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
9 defendant's license to operate a motor vehicle shall be suspended  
10 for a period of between five years and life, which period shall  
11 commence upon completion of any prison sentence imposed upon  
12 that person.

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

16 d. Nothing herein shall be deemed to preclude, if the evidence  
17 so warrants, an indictment and conviction for aggravated  
18 manslaughter under the provisions of subsection a. of N.J.S.2C:11-  
19 4.

20 As used in this section, "auto or vessel" means all means of  
21 conveyance propelled otherwise than by muscular power.

22 e. Any person who violates paragraph (3) of subsection b. of  
23 this section shall forfeit the auto or vessel used in the commission  
24 of the offense, unless the defendant can establish at a hearing,  
25 which may occur at the time of sentencing, by a preponderance of  
26 the evidence that such forfeiture would constitute a serious hardship  
27 to the family of the defendant that outweighs the need to deter such  
28 conduct by the defendant and others. In making its findings, the  
29 court shall take judicial notice of any evidence, testimony or  
30 information adduced at the trial, plea hearing, or other court  
31 proceedings and shall also consider the presentence report and any  
32 other relevant information. Forfeiture pursuant to this subsection  
33 shall be in addition to, and not in lieu of, civil forfeiture pursuant to  
34 chapter 64 of this title.

35 (cf: P.L.2012, c.22, s.1)

36

37 3. N.J.S.2C:44-1 is amended to read as follows:

38 2C:44-1. a. In determining the appropriate sentence to be  
39 imposed on a person who has been convicted of an offense, the  
40 court shall consider the following aggravating circumstances:

41 (1) The nature and circumstances of the offense, and the role of  
42 the actor therein, including whether or not it was committed in an  
43 especially heinous, cruel, or depraved manner;

44 (2) The gravity and seriousness of harm inflicted on the victim,  
45 including whether or not the defendant knew or reasonably should  
46 have known that the victim of the offense was particularly  
47 vulnerable or incapable of resistance due to advanced age, ill-  
48 health, or extreme youth, or was for any other reason substantially

- 1 incapable of exercising normal physical or mental power of  
2 resistance;
- 3 (3) The risk that the defendant will commit another offense;
- 4 (4) A lesser sentence will depreciate the seriousness of the  
5 defendant's offense because it involved a breach of the public trust  
6 under chapters 27 and 30, or the defendant took advantage of a  
7 position of trust or confidence to commit the offense;
- 8 (5) There is a substantial likelihood that the defendant is  
9 involved in organized criminal activity;
- 10 (6) The extent of the defendant's prior criminal record and the  
11 seriousness of the offenses of which he has been convicted;
- 12 (7) The defendant committed the offense pursuant to an  
13 agreement that he either pay or be paid for the commission of the  
14 offense and the pecuniary incentive was beyond that inherent in the  
15 offense itself;
- 16 (8) The defendant committed the offense against a police or  
17 other law enforcement officer, correctional employee or fireman,  
18 acting in the performance of his duties while in uniform or  
19 exhibiting evidence of his authority; the defendant committed the  
20 offense because of the status of the victim as a public servant; or the  
21 defendant committed the offense against a sports official, athletic  
22 coach or manager, acting in or immediately following the  
23 performance of his duties or because of the person's status as a  
24 sports official, coach or manager;
- 25 (9) The need for deterring the defendant and others from  
26 violating the law;
- 27 (10) The offense involved fraudulent or deceptive practices  
28 committed against any department or division of State government;
- 29 (11) The imposition of a fine, penalty or order of restitution  
30 without also imposing a term of imprisonment would be perceived  
31 by the defendant or others merely as part of the cost of doing  
32 business, or as an acceptable contingent business or operating  
33 expense associated with the initial decision to resort to unlawful  
34 practices;
- 35 (12) The defendant committed the offense against a person who  
36 he knew or should have known was 60 years of age or older, or  
37 disabled;
- 38 (13) The defendant, while in the course of committing or  
39 attempting to commit the crime, including the immediate flight  
40 therefrom, used or was in possession of a stolen motor vehicle;
- 41 (14) The offense involved an act of domestic violence, as that  
42 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
43 (C.2C:25-19), committed in the presence of a child under 16 years  
44 of age; and
- 45 (15) The offense involved an act of domestic violence, as that  
46 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
47 (C.2C:25-19) and the defendant committed at least one act of  
48 domestic violence on more than one occasion.

1       b. In determining the appropriate sentence to be imposed on a  
2 person who has been convicted of an offense, the court may  
3 properly consider the following mitigating circumstances:

4       (1) The defendant's conduct neither caused nor threatened  
5 serious harm;

6       (2) The defendant did not contemplate that his conduct would  
7 cause or threaten serious harm;

8       (3) The defendant acted under a strong provocation;

9       (4) There were substantial grounds tending to excuse or justify  
10 the defendant's conduct, though failing to establish a defense;

11       (5) The victim of the defendant's conduct induced or facilitated  
12 its commission;

13       (6) The defendant has compensated or will compensate the  
14 victim of his conduct for the damage or injury that he sustained, or  
15 will participate in a program of community service;

16       (7) The defendant has no history of prior delinquency or  
17 criminal activity or has led a law-abiding life for a substantial  
18 period of time before the commission of the present offense;

19       (8) The defendant's conduct was the result of circumstances  
20 unlikely to recur;

21       (9) The character and attitude of the defendant indicate that he is  
22 unlikely to commit another offense;

23       (10) The defendant is particularly likely to respond affirmatively  
24 to probationary treatment;

25       (11) The imprisonment of the defendant would entail excessive  
26 hardship to himself or his dependents;

27       (12) The willingness of the defendant to cooperate with law  
28 enforcement authorities;

29       (13) The conduct of a youthful defendant was substantially  
30 influenced by another person more mature than the defendant.

31       c. (1) A plea of guilty by a defendant or failure to so plead shall  
32 not be considered in withholding or imposing a sentence of  
33 imprisonment.

34       (2) When imposing a sentence of imprisonment the court shall  
35 consider the defendant's eligibility for release under the law  
36 governing parole, including time credits awarded pursuant to Title  
37 30 of the Revised Statutes, in determining the appropriate term of  
38 imprisonment.

39       d. Presumption of imprisonment. The court shall deal with a  
40 person who has been convicted of a crime of the first or second  
41 degree, or a crime of the third degree where the court finds that the  
42 aggravating factor in paragraph (5), (14) or (15) of subsection a.  
43 applies, by imposing a sentence of imprisonment unless, having  
44 regard to the character and condition of the defendant, it is of the  
45 opinion that his imprisonment would be a serious injustice which  
46 overrides the need to deter such conduct by others.  
47 Notwithstanding the provisions of subsection e. of this section, the  
48 court shall deal with a person who has been convicted of theft of a

1 motor vehicle or of the unlawful taking of a motor vehicle and who  
2 has previously been convicted of either offense by imposing a  
3 sentence of imprisonment unless, having regard to the character and  
4 condition of the defendant, it is of the opinion that his imprisonment  
5 would be a serious injustice which overrides the need to deter such  
6 conduct by others.

7 e. The court shall deal with a person convicted of an offense  
8 other than a crime of the first or second degree, who has not  
9 previously been convicted of an offense, without imposing a  
10 sentence of imprisonment unless, having regard to the nature and  
11 circumstances of the offense and the history, character and  
12 condition of the defendant, it is of the opinion that his imprisonment  
13 is necessary for the protection of the public under the criteria set  
14 forth in subsection a., except that this subsection shall not apply if  
15 the court finds that the aggravating factor in paragraph (5), (14) or  
16 (15) of subsection a. applies or if the person is convicted of any of  
17 the following crimes of the third degree: theft of a motor vehicle;  
18 unlawful taking of a motor vehicle; eluding; negligent vehicular  
19 homicide pursuant to section 1 of P.L. c. (C. ) (pending  
20 before the Legislature as this bill; if the person is convicted of a  
21 crime of the third degree constituting use of a false government  
22 document in violation of subsection c. of section 1 of P.L.1983,  
23 c.565 (C.2C:21-2.1); if the person is convicted of a crime of the  
24 third degree constituting distribution, manufacture or possession of  
25 an item containing personal identifying information in violation of  
26 subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the  
27 person is convicted of a crime of the third or fourth degree  
28 constituting bias intimidation in violation of N.J.S.2C:16-1; if the  
29 person is convicted of a crime of the third degree under paragraph  
30 (12) of subsection b. of N.J.S.2C:12-1 or section 2 of P.L.1997,  
31 c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the  
32 third or fourth degree under the provisions of section 1 or 2 of  
33 P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

34 f. Presumptive Sentences. (1) Except for the crime of murder,  
35 unless the preponderance of aggravating or mitigating factors, as set  
36 forth in subsections a. and b., weighs in favor of a higher or lower  
37 term within the limits provided in N.J.S.2C:43-6, when a court  
38 determines that a sentence of imprisonment is warranted, it shall  
39 impose sentence as follows:

40 (a) To a term of 20 years for aggravated manslaughter or  
41 kidnapping pursuant to paragraph (1) of subsection c. of  
42 N.J.S.2C:13-1 when the offense constitutes a crime of the first  
43 degree;

44 (b) Except as provided in subparagraph (a) of this paragraph to a  
45 term of 15 years for a crime of the first degree;

46 (c) To a term of seven years for a crime of the second degree;

47 (d) To a term of four years for a crime of the third degree; and

48 (e) To a term of nine months for a crime of the fourth degree.

1 In imposing a minimum term pursuant to subsection b. of  
2 N.J.S.2C:43-6, the sentencing court shall specifically place on the  
3 record the aggravating factors set forth in this section which justify  
4 the imposition of a minimum term.

5 Unless the preponderance of mitigating factors set forth in  
6 subsection b. weighs in favor of a lower term within the limits  
7 authorized, sentences imposed pursuant to paragraph (1) of  
8 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life  
9 imprisonment. Unless the preponderance of aggravating and  
10 mitigating factors set forth in subsections a. and b. weighs in favor  
11 of a higher or lower term within the limits authorized, sentences  
12 imposed pursuant to paragraph (2) of subsection a. of N.J.S.2C:43-7  
13 shall have a presumptive term of 50 years' imprisonment; sentences  
14 imposed pursuant to paragraph (3) of subsection a. of N.J.S.2C:43-7  
15 shall have a presumptive term of 15 years' imprisonment; and  
16 sentences imposed pursuant to paragraph (4) of subsection a. of  
17 N.J.S.2C:43-7 shall have a presumptive term of seven years'  
18 imprisonment.

19 In imposing a minimum term pursuant to subsection b. of  
20 N.J.S.2C:43-7, the sentencing court shall specifically place on the  
21 record the aggravating factors set forth in this section which justify  
22 the imposition of a minimum term.

23 (2) In cases of convictions for crimes of the first or second  
24 degree where the court is clearly convinced that the mitigating  
25 factors substantially outweigh the aggravating factors and where the  
26 interest of justice demands, the court may sentence the defendant to  
27 a term appropriate to a crime of one degree lower than that of the  
28 crime for which he was convicted. If the court does impose  
29 sentence pursuant to this paragraph, or if the court imposes a  
30 noncustodial or probationary sentence upon conviction for a crime  
31 of the first or second degree, such sentence shall not become final  
32 for 10 days in order to permit the appeal of such sentence by the  
33 prosecution.

34 g. Imposition of Noncustodial Sentences in Certain Cases. If  
35 the court, in considering the aggravating factors set forth in  
36 subsection a., finds the aggravating factor in paragraph (2), (5),  
37 (10), or (12) of subsection a. and does not impose a custodial  
38 sentence, the court shall specifically place on the record the  
39 mitigating factors which justify the imposition of a noncustodial  
40 sentence.

41 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-  
42 11), the presumption of imprisonment as provided in subsection d.  
43 of this section shall not preclude the admission of a person to the  
44 Intensive Supervision Program, established pursuant to the Rules  
45 Governing the Courts of the State of New Jersey.

46 (cf: P.L.2015, c.98, s.5)

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48 4. This bill shall take effect immediately.

STATEMENT

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This bill establishes the crime of negligent vehicular homicide for killing a person while drunk driving.

Under the bill, criminal homicide constitutes negligent vehicular homicide when it is caused by negligently driving a motor vehicle or operating a boat in violation of the State’s drunk driving laws. Negligent vehicular homicide is a crime of the third degree under the bill. Third degree crimes generally are punishable by a term of imprisonment of three-to-five years, a fine of up to \$15,000, or both. But the bill specifies that the presumption of nonincarceration that normally applies to persons convicted of third degree crimes who have no previous convictions does not apply. Therefore, a violator would receive a minimum three-year term of imprisonment.

Under N.J.S.2C:2-2, a person is considered criminally negligent when the person should be aware of a substantial and unjustifiable risk of such a nature and degree that the person's failure to perceive it involves a gross deviation from the standard of care that a reasonable person would observe in that situation.

This bill is to be known as “Ralph and David’s Law” in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover community activist and business owner, was killed by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The drunk driver recently was acquitted of first-degree aggravated manslaughter and second-degree vehicular homicide. David, a 13-year old boy, also was tragically killed by a drunk driver in Sussex County. The drunk driver was convicted solely of drunk driving and served only 30 days in jail, the maximum term of imprisonment for a first-offense under the State’s drunk driving law. Under this bill, drunk drivers who cause a person’s death could be prosecuted for negligent vehicular homicide and required to serve a significant jail sentence.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3686

with committee amendments

# STATE OF NEW JERSEY

DATED: MAY 12, 2016

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3686.

This bill as amended would establish the crime of strict liability vehicular homicide. Under the bill as amended, a person would be guilty of strict liability vehicular homicide, a crime of the third degree, if he causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of nonimprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

As introduced, the bill established the crime of negligent vehicular homicide and provided that a person committed the offense by “negligently” driving a vehicle or vessel while intoxicated or under the influence of drugs. The amendments remove the term “negligently,” thereby imposing strict liability. Thus, under the amended bill, a person would be guilty of the crime of strict liability vehicular homicide if he causes a homicide by driving a vehicle or operating a vessel while intoxicated or under the influence of drugs.

In addition to establishing the new crime of strict liability vehicular homicide, the bill adds language to N.J.S.2C:11-5 to change the term “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The intent of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances.

The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of death by auto or vessel if he causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an

inference that the defendant was driving recklessly. Death by auto or vessel under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, death by auto or vessel is a crime of the first degree. A crime of the first degree is generally punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vessel while intoxicated or under the influence of drugs.

The committee amended the bill to clarify certain language concerning the underlying offense of driving while intoxicated.

The amendments also clarify the strict liability provisions of the new crime. The amendments provide that the provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result would not apply in a prosecution for strict liability vehicular homicide. For purposes of this offense, the defendant's act of operating a motor vehicle while intoxicated or operating a vessel under the influence of alcohol or drugs is the cause of death when: (1) the operation of the motor vehicle or vessel is an antecedent but for which the death would not have occurred; and (2) the death was not too remote in its occurrence as to have a just bearing on the defendant's liability; or too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle or vessel as to have a just bearing on the defendant's liability. It would not be a defense to a prosecution under the new crime that the decedent contributed to his own death by reckless or negligent conduct or operation of a motor vehicle or vessel. An indictment or conviction under this new crime would not preclude, if the evidence so warrants, an indictment and conviction for any other offense.

The committee amendments also added new sections to the bill to account for statutory cross-references to the current death by auto statute that are set out throughout the statutory law. These statutes are contained in Title 2B, Title 2C, and Title 39.

This bill is designated as “Ralph and David’s Law” in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover business owner and community activist, was killed in 2012 by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The driver was charged with aggravated manslaughter and vehicular homicide but in March 2016 was found not guilty. In 2004, David Heim, age 13, was run over and killed by a drunk driver in Sussex County as he was crossing the street with his mother and siblings. The driver was convicted only of drunk driving and sentenced to 30 days in jail.

COMMITTEE AMENDMENTS:

1. Amend the bill title and synopsis to reflect the amendments.
2. Remove the word “negligently” from subsection a. of section 1 of the bill and replace the phrase “negligent vehicular homicide” throughout the bill with “strict liability vehicular homicide.”
3. Add the terms “while intoxicated” and “under the influence of alcohol or drugs” to section 1 of the bill, concerning the underlying offense of driving while intoxicated.
4. Add a new subsection c. to section 1 concerning the causal relationship between conduct and result, defense to a prosecution, and prosecutions for criminal homicide or any other offense.
5. Insert a new section 2 amending N.J.S.2C:11-2, Criminal Homicide, to provide that criminal homicide includes the new crime of strict liability vehicular homicide.
6. Insert new sections 4 and 5, and 7 through 18, amending various sections in Title 2B, Title 2C, and Title 39 to add references to the new crime created by the bill.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3686**

# STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 2016

The Senate Law and Public Safety Committee reports without recommendation Assembly Bill No. 3686 (1R).

As reported by the committee, this bill establishes the crime of strict liability vehicular homicide. Under the bill, a person is guilty of strict liability vehicular homicide, a crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of nonimprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

In addition to establishing the new crime of strict liability vehicular homicide, the bill adds language to N.J.S.2C:11-5 to change the phrase “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The intent of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances. The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of vehicular homicide if he or she causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Vehicular homicide under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, vehicular homicide is a crime of the first degree. A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vehicle or vessel while intoxicated or under the influence of drugs.

The bill clarifies certain language concerning the underlying offense of driving while intoxicated.

The bill also clarifies the strict liability provisions of the new crime. The bill provides that the provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result would not apply in a prosecution for strict liability vehicular homicide. For purposes of this offense, the defendant's act of operating a motor vehicle while intoxicated or operating a vessel under the influence of alcohol or drugs is the cause of death when: (1) the operation of the motor vehicle or vessel is an antecedent but for which the death would not have occurred; and (2) the death was not too remote in its occurrence as to have a just bearing on the defendant's liability; or too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle or vessel as to have a just bearing on the defendant's liability. It would not be a defense to a prosecution under the new crime that the decedent contributed to his own death by reckless or negligent conduct or operation of a motor vehicle or vessel. An indictment or conviction under this new crime would not preclude, if the evidence so warrants, an indictment and conviction for any other offense.

The bill also updates other sections of the law to account for statutory cross-references to the current vehicular homicide statute. These sections of law are contained in Title 2B, Title 2C, and Title 39.

This bill is designated as "Ralph and David's Law" in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover business owner and community activist, was killed in 2012 by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The driver was charged with aggravated manslaughter and vehicular homicide, but in March 2016 was found not guilty. In 2004, David Heim, age 13, was run over and killed by a drunk driver in Sussex County as he was crossing the street with his mother and siblings. The driver was convicted only of drunk driving and sentenced to 30 days in jail.

As reported by the committee, this bill is identical to Senate Bill No. 2423, also reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3686**

# **STATE OF NEW JERSEY**

DATED: JUNE 15, 2017

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3686 (1R).

This bill establishes the crime of strict liability vehicular homicide. Under the bill, a person is guilty of strict liability vehicular homicide, a crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of nonimprisonment that generally applies to first offenders convicted of a crime of the third degree does not apply to persons convicted of this new crime.

In addition, the bill adds language to N.J.S.2C:11-5 to change the phrase “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The purpose of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances. The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of vehicular homicide if he or she causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Vehicular homicide under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, vehicular homicide is a crime of the first degree. A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vehicle or vessel while intoxicated or under the influence of drugs.

The bill clarifies certain language concerning the underlying offense of driving while intoxicated.

The bill also clarifies the strict liability provisions of the new crime. The bill provides that the provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result do not apply in a prosecution for strict liability vehicular homicide. For purposes of this offense, the defendant's act of operating a motor vehicle while intoxicated or operating a vessel under the influence of alcohol or drugs is the cause of death when: (1) the operation of the motor vehicle or vessel is an antecedent but for which the death would not have occurred; and (2) the death was not too remote in its occurrence as to have a just bearing on the defendant's liability; or too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle or vessel as to have a just bearing on the defendant's liability. It is not a defense to a prosecution under the new crime that the decedent contributed to his own death by reckless or negligent conduct or operation of a motor vehicle or vessel. An indictment or conviction under this new crime does not preclude, if the evidence so warrants, an indictment and conviction for any other offense.

The bill updates other sections of law to account for statutory cross-references to the current vehicular homicide statute. These sections of law are contained in Title 2B, Title 2C, and Title 39.

This bill is designated as Ralph and David's Law in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover business owner and community activist, was killed in 2012 by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The driver was charged with aggravated manslaughter and vehicular homicide, but in March 2016 was found not guilty. In 2004, David Heim, age 13, was run over and killed by a drunk driver in Sussex County as he was crossing the street with his mother and siblings. The driver was convicted only of drunk driving and sentenced to 30 days in jail.

As reported, this bill is identical to Senate Bill No. 2423, as also reported by the committee.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) states that since strict liability vehicular homicide is a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.

However, the OLS expects that the bill will increase the annual workload and operating expenditures of the Department of Law and

Public Safety, the Judiciary, the Office of the Public Defender, the Department of Corrections, and the State Parole Board.

In addition, the OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree does not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections is expected to incur an indeterminate annual cost increase to house offenders convicted under this bill.

The OLS also notes that the State may receive indeterminate additional annual revenue from fines and penalties imposed on individuals convicted of the new crime.

**FISCAL NOTE**  
 [First Reprint]  
**ASSEMBLY, No. 3686**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 1, 2016

**SUMMARY**

**Synopsis:** Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law.

**Type of Impact:** General Fund expenditure.

**Agencies Affected:** Department of Corrections, Judiciary.

**Executive Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) agrees with the Administrative Office of the Courts (AOC) that since this is a new criminal offense, there is no data available with which to determine the number of offenders that would be affected by this bill. As a result, the OLS is unable to determine the cost of the bill.
- The OLS notes that while the conviction of a crime of the third degree brings with it the presumption of non-incarceration, this bill eliminates that presumption. As a result, the Department of Corrections would incur an indeterminate cost to house offenders convicted under this bill.
- The OLS also notes that according to the DOC, the average annual per capita cost to house an inmate in a State prison facility totals \$40,000. The DOC data indicates that of the \$40,000 cost to house a State sentenced prison inmate, the marginal cost to house an inmate in a State prison facility is \$7.94, per day or \$2,898 annually for food, wages and clothing. As a result, any offender who is convicted under this bill and incarcerated in a State correctional facility would cost \$2,898 per year. The OLS also notes that the bill would generate an indeterminate cost to the Judiciary to bring the offender to trial.

- The bill would establish the crime of strict liability vehicular homicide. Under the bill, a person would be guilty of strict liability vehicular homicide, a crime of the third degree, if he causes a homicide by driving a vehicle or operating a vessel in violation of driving a vehicle or operating a vessel while intoxicated or under the influence of drugs. The presumption of non-imprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

## BILL DESCRIPTION

Assembly Bill No. 3686 (1R) of 2016 would establish the crime of strict liability vehicular homicide. Under the bill, a person would be guilty of strict liability vehicular homicide, a crime of the third degree, if he causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of non-imprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

In addition to establishing the new crime of strict liability vehicular homicide, the bill adds language to N.J.S.2C:11-5 to change the term “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The intent of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances.

The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of death by auto or vessel if he causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Death by auto or vessel under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, death by auto or vessel is a crime of the first degree. A crime of the first degree is generally punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vessel while intoxicated or under the influence of drugs.

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

The AOC states that as the proposed legislation would create a new and distinct offense, the Judiciary does not have a reliable means to estimate the fiscal impact this legislation would have on Judiciary revenue or expenditures.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS agrees with the AOC that since this is a new criminal offense, there is no data available with which to determine the number of offenders would be affected by this bill. As a result, the OLS is unable to determine the cost of the bill.

The OLS notes that while the conviction of a crime of the third degree brings with it the presumption of non-incarceration, this bill eliminates that presumption. As a result, the Department of Corrections would incur an indeterminate cost to house offenders convicted under this bill. The OLS also notes that according to the DOC, the average annual per capita cost to house an inmate in a State prison facility totals \$40,000. The DOC data indicates that of the \$40,000 cost to house State a sentenced prison inmate, the marginal cost to house an inmate in a State prison facility is \$7.94, per day or \$2,898 annually for food, wages and clothing. As a result, any offender who is convicted under this bill and incarcerated in a State correctional facility would cost \$2,898 per year. The OLS also notes that the bill would generate an indeterminate cost to the Judiciary to bring the offender to trial.

*Section: Judiciary*

*Analyst: Raughley, Anne C.  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**Corrected Copy**  
**LEGISLATIVE FISCAL ESTIMATE**  
 [First Reprint]  
**ASSEMBLY, No. 3686**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 16, 2017

**SUMMARY**

- Synopsis:** Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law.
- Type of Impact:** Annual expenditure and revenue increases to State General Fund.
- Agencies Affected:** Department of Law and Public Safety; Judiciary; Office of the Public Defender; Department of Corrections; State Parole Board.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Annual State Expenditure Increase</b>	Indeterminate – See Comments Below.		
<b>Annual State Revenue Increase</b>	Indeterminate – See Comments Below.		

- The Office of Legislative Services (OLS) states that since strict liability vehicular homicide would be a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.
- The OLS estimates that the bill would increase the annual workload and operating expenditures of the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, the Department of Corrections, and the State Parole Board.
- The OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree would not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections would incur an indeterminate annual cost increase to house offenders convicted under this bill. Data obtained from the department indicate that the average annual per capita cost to house an inmate in a State prison facility in FY 2016 totaled \$41,964. However, this cost would not be incurred unless the prison population increases by a number large enough for the department to increase bed space capacity, raising fixed costs. Additional costs to be incurred in housing a small number of additional inmates without increasing bed spaces would total \$8.45 per day, totaling \$3,084 annually per inmate in marginal costs for food, wage and clothing.



- The State may also receive indeterminate additional annual revenue from fines and penalties imposed on individuals convicted of the new crime.

## **BILL DESCRIPTION**

Assembly Bill No. 3686 (1R) of 2016 establishes the crime of “strict liability vehicular homicide.” A person is guilty of the new crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel while intoxicated or under the influence of drugs. The presumption of non-imprisonment that generally applies to first-time offenders of a crime of the third degree would not be applicable to persons convicted of the new crime.

The bill also renames the existing crime of “vehicular homicide” to “reckless vehicular homicide.” A driver who causes a homicide could therefore be charged with either “strict liability vehicular homicide” or the higher grade “reckless vehicular homicide,” depending on the circumstances.

Under current law, a person is guilty of “vehicular homicide” if he or she causes a homicide by driving a vehicle or vessel recklessly. Proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs gives rise to an inference that the defendant was driving recklessly but the prosecution must still prove a causal relationship between cause and effect to secure a conviction. “Vehicular homicide” is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs while on school property or driving through a school crossing, “vehicular homicide” is a crime of the first degree.

A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine of up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine of up to \$15,000, or both.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since strict liability vehicular homicide would be a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.

The bill establishes the new third degree crime of strict liability vehicular homicide of which defendants would be convicted whenever the prosecution would be able to prove that defendants drove while intoxicated when they caused the death of another person. Any conviction would be in addition to convictions under the State’s existing driving under the influence law. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Although a presumption of non-imprisonment generally applies to first-time

offenders of a crime of the third degree, the bill would require a prison sentence for persons convicted of the crime of strict liability vehicular homicide.

Under current law, a higher standard of proof must be met for convictions of the second degree crime of vehicular homicide. As a result, depending on the circumstances, drivers who while driving under the influence cause the death of another person may not receive a criminal penalty and may only be sentenced under the State's driving under the influence law under which the maximum prison term for the first offense is 30 days and 180 days for certain subsequent offenses.

Accordingly, the OLS expects that the bill would not change the number of convictions of the second degree crime of vehicular homicide, renamed reckless vehicular homicide, as convictions thereof under current law would remain convictions under the bill, carrying the same penalties. In addition, the OLS anticipates no change in the number of convictions under the driving under the influence law, as convictions of the new crime of strict liability vehicular homicide would be in addition to the convictions and penalties under the driving under the influence law.

Any change would be attributable to an unknown number of cases becoming alleged crimes of the third degree that currently result only in convictions and penalties under the State's driving under the influence law.

The OLS notes that the added crime would not shift cases from municipal courts, which generally adjudicate driving under the influence cases, to State courts, given that P.L.2006, c.28 already requires that driving under the influence cases must be transferred to the Superior Court when death or serious bodily injury occurs.

However, the annual workload and operating expenditures of prosecutors, courts, and, if applicable, the Office of the Public Defender may increase to the extent that cases involving crimes of the third degree are more labor-intensive than driving under the influence cases.

In addition, the OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree would not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections would incur an indeterminate annual cost increase to house offenders convicted under this bill. Data obtained from the department indicate that the average annual per capita cost to house an inmate in a State prison facility in FY 2016 totaled \$41,964. However, this cost would not be incurred unless the prison population increases by a number large enough for the department to increase bed space capacity, raising fixed costs. Additional costs to be incurred in housing a small number of additional inmates without increasing bed spaces would total \$8.45 per day, totaling \$3,084 annually per inmate in marginal costs for food, wage and clothing. In addition, the State Parole Board would have to supervise the return to society of additional convicts.

Any additional State cost from establishing the new crime may be offset, in part, by fines and penalties imposed by the courts on defendants convicted of having committed the new crime; however, the State's ability to collect criminal fines and penalties has historically been limited.

*Section:*            *Judiciary*

*Analyst:*         *Anne Raughley*  
                         *Principal Fiscal Analyst*

*Approved:*       *Frank W. Haines III*  
                         *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**FISCAL NOTE**  
 [First Reprint]  
**ASSEMBLY, No. 3686**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 1, 2016

**SUMMARY**

- Synopsis:** Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law.
- Type of Impact:** General Fund expenditure.
- Agencies Affected:** Department of Corrections, Judiciary.

**Executive Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) agrees with the Administrative Office of the Courts (AOC) that since this is a new criminal offense, there is no data available with which to determine the number of offenders that would be affected by this bill. As a result, the OLS is unable to determine the cost of the bill.
- The OLS notes that while the conviction of a crime of the third degree brings with it the presumption of non-incarceration, this bill eliminates that presumption. As a result, the Department of Corrections would incur an indeterminate cost to house offenders convicted under this bill.
- The OLS also notes that according to the DOC, the average annual per capita cost to house an inmate in a State prison facility totals \$40,000. The DOC data indicates that of the \$40,000 cost to house a State sentenced prison inmate, the marginal cost to house an inmate in a State prison facility is \$7.94, per day or \$2,898 annually for food, wages and clothing. As a result, any offender who is convicted under this bill and incarcerated in a State correctional facility would cost \$2,898 per year. The OLS also notes that the bill would generate an indeterminate cost to the Judiciary to bring the offender to trial.



- The bill would establish the crime of strict liability vehicular homicide. Under the bill, a person would be guilty of strict liability vehicular homicide, a crime of the third degree, if he causes a homicide by driving a vehicle or operating a vessel in violation of driving a vehicle or operating a vessel while intoxicated or under the influence of drugs. The presumption of non-imprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

## BILL DESCRIPTION

Assembly Bill No. 3686 (1R) of 2016 would establish the crime of strict liability vehicular homicide. Under the bill, a person would be guilty of strict liability vehicular homicide, a crime of the third degree, if he causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of non-imprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

In addition to establishing the new crime of strict liability vehicular homicide, the bill adds language to N.J.S.2C:11-5 to change the term “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The intent of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances.

The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of death by auto or vessel if he causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Death by auto or vessel under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, death by auto or vessel is a crime of the first degree. A crime of the first degree is generally punishable by a term of imprisonment of ten to 20 years or a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to ten years or a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years or a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vessel while intoxicated or under the influence of drugs.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The AOC states that as the proposed legislation would create a new and distinct offense, the Judiciary does not have a reliable means to estimate the fiscal impact this legislation would have on Judiciary revenue or expenditures.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS agrees with the AOC that since this is a new criminal offense, there is no data available with which to determine the number of offenders would be affected by this bill. As a result, the OLS is unable to determine the cost of the bill.

The OLS notes that while the conviction of a crime of the third degree brings with it the presumption of non-incarceration, this bill eliminates that presumption. As a result, the Department of Corrections would incur an indeterminate cost to house offenders convicted under this bill. The OLS also notes that according to the DOC, the average annual per capita cost to house an inmate in a State prison facility totals \$40,000. The DOC data indicates that of the \$40,000 cost to house State a sentenced prison inmate, the marginal cost to house an inmate in a State prison facility is \$7.94, per day or \$2,898 annually for food, wages and clothing. As a result, any offender who is convicted under this bill and incarcerated in a State correctional facility would cost \$2,898 per year. The OLS also notes that the bill would generate an indeterminate cost to the Judiciary to bring the offender to trial.

*Section: Judiciary*

*Analyst: Raughley, Anne C.  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 2423**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED JUNE 27, 2016

**Sponsored by:**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning strict liability vehicular homicide and  
2 designated “Ralph and David’s Law,” supplementing chapter 11  
3 of Title 2C of the New Jersey Statutes, and amending various  
4 sections of the statutory law.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) a. Criminal homicide constitutes strict  
10 liability vehicular homicide when it is caused by driving a vehicle  
11 while intoxicated in violation of R.S.39:4-50 or operating a vessel  
12 under the influence of alcohol or drugs in violation of section 3 of  
13 P.L.1952, c.157 (C.12:7-46).

14 b. Strict liability vehicular homicide is a crime of the third  
15 degree, but the presumption of nonimprisonment set forth in  
16 subsection e. of N.J.S.2C:44-1 shall not apply.

17 c. The provisions of N.J.S.2C:2-3 governing the causal  
18 relationship between conduct and result shall not apply in a  
19 prosecution under this section. For purposes of this offense, the  
20 defendant's act of operating a motor vehicle while intoxicated in  
21 violation of R.S.39:4-50 or operating a vessel under the influence of  
22 alcohol or drugs in violation of section 3 of P.L.1952, c.157  
23 (C.12:7-46) is the cause of death when:

24 (1) The operation of the motor vehicle or vessel is an antecedent  
25 but for which the death would not have occurred; and

26 (2) The death was not:

27 (a) too remote in its occurrence as to have a just bearing on the  
28 defendant's liability; or

29 (b) too dependent upon the conduct of another person which was  
30 unrelated to the defendant's operation of a motor vehicle or vessel  
31 as to have a just bearing on the defendant's liability.

32 d. It shall not be a defense to a prosecution under this section  
33 that the decedent contributed to his own death by reckless or  
34 negligent conduct or operation of a motor vehicle or vessel.

35 e. Nothing in this section shall be deemed to preclude, if the  
36 evidence so warrants, an indictment and conviction for any other  
37 offense.

38  
39 2. N.J.S.2C:11-2 is amended to read as follows:

40 2C:11-2. Criminal homicide.

41 a. A person is guilty of criminal homicide if he purposely,  
42 knowingly, recklessly or, under the circumstances set forth in  
43 **[section]** N.J.S.2C:11-5 or section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
44 (pending before the Legislature as this bill), causes the death of  
45 another human being.

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

**Matter underlined thus is new matter.**

1       b. Criminal homicide is murder, manslaughter or death by auto  
2 or vessel.

3 (cf: P.L.1979, c.178, s.20)

4

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

6       2C:11-5. Death by auto or vessel.

7       a. Criminal homicide constitutes reckless vehicular homicide  
8 when it is caused by driving a vehicle or vessel recklessly.

9       Proof that the defendant fell asleep while driving or was driving  
10 after having been without sleep for a period in excess of 24  
11 consecutive hours may give rise to an inference that the defendant  
12 was driving recklessly. Proof that the defendant was driving while  
13 intoxicated in violation of R.S.39:4-50 or was operating a vessel  
14 under the influence of alcohol or drugs in violation of section 3 of  
15 P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the  
16 defendant was driving recklessly. Proof that the defendant was  
17 operating a hand-held wireless telephone while driving a motor  
18 vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3)  
19 may give rise to an inference that the defendant was driving  
20 recklessly. Nothing in this section shall be construed to in any way  
21 limit the conduct or conditions that may be found to constitute  
22 driving a vehicle or vessel recklessly.

23       b. Except as provided in paragraph (3) of this subsection,  
24 reckless vehicular homicide is a crime of the second degree.

25       (1) If the defendant was operating the auto or vessel while under  
26 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
27 habit-producing drug, or with a blood alcohol concentration at or  
28 above the prohibited level as prescribed in R.S.39:4-50, or if the  
29 defendant was operating the auto or vessel while his driver's license  
30 or reciprocity privilege was suspended or revoked for any violation  
31 of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
32 **【Director】** Chief Administrator of the **【Division of Motor**  
33 **Vehicles】** New Jersey Motor Vehicle Commission pursuant to  
34 P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation  
35 of R.S.39:4-96, the defendant shall be sentenced to a term of  
36 imprisonment by the court. The term of imprisonment shall include  
37 the imposition of a minimum term. The minimum term shall be  
38 fixed at, or between, one-third and one-half of the sentence imposed  
39 by the court or three years, whichever is greater, during which the  
40 defendant shall be ineligible for parole.

41       (2) The court shall not impose a mandatory sentence pursuant to  
42 paragraph (1) of this subsection unless the grounds therefor have  
43 been established at a hearing. At the hearing, which may occur at  
44 the time of sentencing, the prosecutor shall establish by a  
45 preponderance of the evidence that the defendant was operating the  
46 auto or vessel while under the influence of any intoxicating liquor,  
47 narcotic, hallucinogenic or habit-producing drug, or with a blood  
48 alcohol concentration at or above the level prescribed in R.S.39:4-

1 50 or that the defendant was operating the auto or vessel while his  
2 driver's license or reciprocity privilege was suspended or revoked  
3 for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512  
4 (C.39:4-50.4a), by the **【Director】** Chief Administrator of the  
5 **【Division of Motor Vehicles】** New Jersey Motor Vehicle  
6 Commission pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by  
7 the court for a violation of R.S.39:4-96. In making its findings, the  
8 court shall take judicial notice of any evidence, testimony or  
9 information adduced at the trial, plea hearing, or other court  
10 proceedings and shall also consider the presentence report and any  
11 other relevant information.

12 (3) **【Vehicular】** Reckless vehicular homicide is a crime of the  
13 first degree if the defendant was operating the auto or vessel while  
14 in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-  
15 50.4a) while:

16 (a) on any school property used for school purposes which is  
17 owned by or leased to any elementary or secondary school or school  
18 board, or within 1,000 feet of such school property;

19 (b) driving through a school crossing as defined in R.S.39:1-1 if  
20 the municipality, by ordinance or resolution, has designated the  
21 school crossing as such; or

22 (c) driving through a school crossing as defined in R.S.39:1-1  
23 knowing that juveniles are present if the municipality has not  
24 designated the school crossing as such by ordinance or resolution.

25 A map or true copy of a map depicting the location and  
26 boundaries of the area on or within 1,000 feet of any property used  
27 for school purposes which is owned by or leased to any elementary  
28 or secondary school or school board produced pursuant to section 1  
29 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under  
30 subparagraph (a) of this paragraph.

31 It shall be no defense to a prosecution for a violation of  
32 subparagraph (a) or (b) of this paragraph that the defendant was  
33 unaware that the prohibited conduct took place while on or within  
34 1,000 feet of any school property or while driving through a school  
35 crossing. Nor shall it be a defense to a prosecution under  
36 subparagraph (a) or (b) of this paragraph that no juveniles were  
37 present on the school property or crossing zone at the time of the  
38 offense or that the school was not in session.

39 (4) If the defendant was operating the auto or vessel in violation  
40 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
41 defendant's license to operate a motor vehicle shall be suspended  
42 for a period of between five years and life, which period shall  
43 commence upon completion of any prison sentence imposed upon  
44 that person.

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

1 d. Nothing herein shall be deemed to preclude, if the evidence  
2 so warrants, an indictment and conviction for aggravated  
3 manslaughter under the provisions of subsection a. of N.J.S.2C:11-  
4 4.

5 As used in this section, "auto or vessel" means all means of  
6 conveyance propelled otherwise than by muscular power.

7 e. Any person who violates paragraph (3) of subsection b. of  
8 this section shall forfeit the auto or vessel used in the commission  
9 of the offense, unless the defendant can establish at a hearing,  
10 which may occur at the time of sentencing, by a preponderance of  
11 the evidence that such forfeiture would constitute a serious hardship  
12 to the family of the defendant that outweighs the need to deter such  
13 conduct by the defendant and others. In making its findings, the  
14 court shall take judicial notice of any evidence, testimony or  
15 information adduced at the trial, plea hearing, or other court  
16 proceedings and shall also consider the presentence report and any  
17 other relevant information. Forfeiture pursuant to this subsection  
18 shall be in addition to, and not in lieu of, civil forfeiture pursuant to  
19 chapter 64 of this title.

20 (cf: P.L.2012, c.22, s.1)

21

22 4. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to  
23 read as follows:

24 1. A motor vehicle operator who knows he is involved in an  
25 accident and knowingly leaves the scene of that accident under  
26 circumstances that violate the provisions of R.S.39:4-129 shall be  
27 guilty of a crime of the second degree if the accident results in the  
28 death of another person.

29 If the evidence so warrants, nothing in this section shall be  
30 deemed to preclude an indictment and conviction for aggravated  
31 manslaughter under the provisions of N.J.S.2C:11-4 **【or】** , reckless  
32 vehicular homicide under the provisions of N.J.S.2C:11-5 or strict  
33 liability vehicular homicide under the provisions of section 1 of  
34 P.L. , c. (C. ) (pending before the Legislature as this bill).

35 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
36 provisions of law, a conviction arising under this section shall not  
37 merge with a conviction for aggravated manslaughter under the  
38 provisions of N.J.S.2C:11-4 **【or for】** , reckless vehicular homicide  
39 under the provisions of N.J.S.2C:11-5 or strict liability vehicular  
40 homicide under the provisions of section 1 of P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill) and a  
42 separate sentence shall be imposed upon each such conviction.

43 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
44 provisions of law, when the court imposes multiple sentences of  
45 imprisonment for more than one offense, those sentences shall run  
46 consecutively.

47 For the purposes of this section, neither knowledge of the death  
48 nor knowledge of the violation are elements of the offense and it

1 shall not be a defense that the operator of the motor vehicle was  
2 unaware of the death or of the provisions of R.S.39:4-129.

3 (cf: P.L.2007, c.83, s.1)

4

5 5. Section 1 of P.L.2014, c.17 (C.2C:11-5.2) is amended to  
6 read as follows:

7 1. a. Whenever any vessel, as defined in section 2 of P.L.1995,  
8 c.401 (C.12:7-71), is involved in an accident upon the waters of this  
9 State, and the operator of that vessel knows he is involved in an  
10 accident and knowingly leaves the scene of that accident under  
11 circumstances that violate the provisions of section 11 of P.L.1962,  
12 c.73 (C.12:7-34.46), that operator shall be guilty of a crime of the  
13 second degree if the accident results in the death of another person,  
14 and shall be guilty of a crime of the third degree if the accident  
15 results in serious bodily injury to another person. The presumption  
16 of nonimprisonment set forth in N.J.S.2C:44-1 shall not apply to  
17 persons convicted under the provisions of this section.

18 b. If the evidence so warrants, nothing in this section shall be  
19 deemed to preclude an indictment and conviction for aggravated  
20 manslaughter under the provisions of N.J.S.2C:11-4 **[or]** , reckless  
21 vehicular homicide under the provisions of N.J.S.2C:11-5 or strict  
22 liability vehicular homicide under the provisions of section 1 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill).

24 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
25 provisions of law, a conviction arising under this section shall not  
26 merge with a conviction for aggravated manslaughter under the  
27 provisions of N.J.S.2C:11-4 **[or for]** , reckless vehicular homicide  
28 under the provisions of N.J.S.2C:11-5 or strict liability vehicular  
29 homicide under the provisions of section 1 of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill) and a  
31 separate sentence shall be imposed upon each such conviction.

32 d. Notwithstanding the provisions of N.J.S.2C:44-5 or any  
33 other provisions of law, when the court imposes multiple sentences  
34 of imprisonment for more than one offense, those sentences shall  
35 run consecutively.

36 e. For the purposes of this section, knowledge of the death,  
37 knowledge of the serious bodily injury, or knowledge of the  
38 violation shall not be elements of the offense and it shall not be a  
39 defense that the operator of the vessel was unaware of the death or  
40 of the provisions of section 11 of P.L.1962, c.73 (C.12:7-34.46).<sup>1</sup>

41 (cf: P.L.2014, c.17, s.1)

42

43 6. N.J.S.2C:44-1 is amended to read as follows:

44 2C:44-1. a. In determining the appropriate sentence to be  
45 imposed on a person who has been convicted of an offense, the  
46 court shall consider the following aggravating circumstances:

- 1 (1) The nature and circumstances of the offense, and the role of  
2 the actor therein, including whether or not it was committed in an  
3 especially heinous, cruel, or depraved manner;
- 4 (2) The gravity and seriousness of harm inflicted on the victim,  
5 including whether or not the defendant knew or reasonably should  
6 have known that the victim of the offense was particularly  
7 vulnerable or incapable of resistance due to advanced age, ill-  
8 health, or extreme youth, or was for any other reason substantially  
9 incapable of exercising normal physical or mental power of  
10 resistance;
- 11 (3) The risk that the defendant will commit another offense;
- 12 (4) A lesser sentence will depreciate the seriousness of the  
13 defendant's offense because it involved a breach of the public trust  
14 under chapters 27 and 30, or the defendant took advantage of a  
15 position of trust or confidence to commit the offense;
- 16 (5) There is a substantial likelihood that the defendant is  
17 involved in organized criminal activity;
- 18 (6) The extent of the defendant's prior criminal record and the  
19 seriousness of the offenses of which he has been convicted;
- 20 (7) The defendant committed the offense pursuant to an  
21 agreement that he either pay or be paid for the commission of the  
22 offense and the pecuniary incentive was beyond that inherent in the  
23 offense itself;
- 24 (8) The defendant committed the offense against a police or  
25 other law enforcement officer, correctional employee or fireman,  
26 acting in the performance of his duties while in uniform or  
27 exhibiting evidence of his authority; the defendant committed the  
28 offense because of the status of the victim as a public servant; or the  
29 defendant committed the offense against a sports official, athletic  
30 coach or manager, acting in or immediately following the  
31 performance of his duties or because of the person's status as a  
32 sports official, coach or manager;
- 33 (9) The need for deterring the defendant and others from  
34 violating the law;
- 35 (10) The offense involved fraudulent or deceptive practices  
36 committed against any department or division of State government;
- 37 (11) The imposition of a fine, penalty or order of restitution  
38 without also imposing a term of imprisonment would be perceived  
39 by the defendant or others merely as part of the cost of doing  
40 business, or as an acceptable contingent business or operating  
41 expense associated with the initial decision to resort to unlawful  
42 practices;
- 43 (12) The defendant committed the offense against a person who  
44 he knew or should have known was 60 years of age or older, or  
45 disabled;
- 46 (13) The defendant, while in the course of committing or  
47 attempting to commit the crime, including the immediate flight  
48 therefrom, used or was in possession of a stolen motor vehicle;

1 (14) The offense involved an act of domestic violence, as that  
2 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
3 (C.2C:25-19), committed in the presence of a child under 16 years  
4 of age; and

5 (15) The offense involved an act of domestic violence, as that  
6 term is defined in subsection a. of section 3 of P.L.1991, c. 261  
7 (C.2C:25-19) and the defendant committed at least one act of  
8 domestic violence on more than one occasion.

9 b. In determining the appropriate sentence to be imposed on a  
10 person who has been convicted of an offense, the court may  
11 properly consider the following mitigating circumstances:

12 (1) The defendant's conduct neither caused nor threatened  
13 serious harm;

14 (2) The defendant did not contemplate that his conduct would  
15 cause or threaten serious harm;

16 (3) The defendant acted under a strong provocation;

17 (4) There were substantial grounds tending to excuse or justify  
18 the defendant's conduct, though failing to establish a defense;

19 (5) The victim of the defendant's conduct induced or facilitated  
20 its commission;

21 (6) The defendant has compensated or will compensate the  
22 victim of his conduct for the damage or injury that he sustained, or  
23 will participate in a program of community service;

24 (7) The defendant has no history of prior delinquency or  
25 criminal activity or has led a law-abiding life for a substantial  
26 period of time before the commission of the present offense;

27 (8) The defendant's conduct was the result of circumstances  
28 unlikely to recur;

29 (9) The character and attitude of the defendant indicate that he is  
30 unlikely to commit another offense;

31 (10) The defendant is particularly likely to respond affirmatively  
32 to probationary treatment;

33 (11) The imprisonment of the defendant would entail excessive  
34 hardship to himself or his dependents;

35 (12) The willingness of the defendant to cooperate with law  
36 enforcement authorities;

37 (13) The conduct of a youthful defendant was substantially  
38 influenced by another person more mature than the defendant.

39 c. (1) A plea of guilty by a defendant or failure to so plead shall  
40 not be considered in withholding or imposing a sentence of  
41 imprisonment.

42 (2) When imposing a sentence of imprisonment the court shall  
43 consider the defendant's eligibility for release under the law  
44 governing parole, including time credits awarded pursuant to Title  
45 30 of the Revised Statutes, in determining the appropriate term of  
46 imprisonment.

47 d. Presumption of imprisonment. The court shall deal with a  
48 person who has been convicted of a crime of the first or second

1 degree, or a crime of the third degree where the court finds that the  
2 aggravating factor in paragraph (5), (14) or (15) of subsection a.  
3 applies, by imposing a sentence of imprisonment unless, having  
4 regard to the character and condition of the defendant, it is of the  
5 opinion that his imprisonment would be a serious injustice which  
6 overrides the need to deter such conduct by others.  
7 Notwithstanding the provisions of subsection e. of this section, the  
8 court shall deal with a person who has been convicted of theft of a  
9 motor vehicle or of the unlawful taking of a motor vehicle and who  
10 has previously been convicted of either offense by imposing a  
11 sentence of imprisonment unless, having regard to the character and  
12 condition of the defendant, it is of the opinion that his imprisonment  
13 would be a serious injustice which overrides the need to deter such  
14 conduct by others.

15 e. The court shall deal with a person convicted of an offense  
16 other than a crime of the first or second degree, who has not  
17 previously been convicted of an offense, without imposing a  
18 sentence of imprisonment unless, having regard to the nature and  
19 circumstances of the offense and the history, character and  
20 condition of the defendant, it is of the opinion that his imprisonment  
21 is necessary for the protection of the public under the criteria set  
22 forth in subsection a., except that this subsection shall not apply if  
23 the court finds that the aggravating factor in paragraph (5), (14) or  
24 (15) of subsection a. applies or if the person is convicted of any of  
25 the following crimes of the third degree: theft of a motor vehicle;  
26 unlawful taking of a motor vehicle; eluding; strict liability vehicular  
27 homicide pursuant to section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending  
28 before the Legislature as this bill; if the person is convicted of a  
29 crime of the third degree constituting use of a false government  
30 document in violation of subsection c. of section 1 of P.L.1983,  
31 c.565 (C.2C:21-2.1); if the person is convicted of a crime of the  
32 third degree constituting distribution, manufacture or possession of  
33 an item containing personal identifying information in violation of  
34 subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the  
35 person is convicted of a crime of the third or fourth degree  
36 constituting bias intimidation in violation of N.J.S.2C:16-1; if the  
37 person is convicted of a crime of the third degree under paragraph  
38 (12) of subsection b. of N.J.S.2C:12-1 or section 2 of P.L.1997,  
39 c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the  
40 third or fourth degree under the provisions of section 1 or 2 of  
41 P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

42 f. Presumptive Sentences. (1) Except for the crime of murder,  
43 unless the preponderance of aggravating or mitigating factors, as set  
44 forth in subsections a. and b., weighs in favor of a higher or lower  
45 term within the limits provided in N.J.S.2C:43-6, when a court  
46 determines that a sentence of imprisonment is warranted, it shall  
47 impose sentence as follows:

1 (a) To a term of 20 years for aggravated manslaughter or  
2 kidnapping pursuant to paragraph (1) of subsection c. of  
3 N.J.S.2C:13-1 when the offense constitutes a crime of the first  
4 degree;

5 (b) Except as provided in subparagraph (a) of this paragraph to a  
6 term of 15 years for a crime of the first degree;

7 (c) To a term of seven years for a crime of the second degree;

8 (d) To a term of four years for a crime of the third degree; and

9 (e) To a term of nine months for a crime of the fourth degree.

10 In imposing a minimum term pursuant to subsection b. of  
11 N.J.S.2C:43-6, the sentencing court shall specifically place on the  
12 record the aggravating factors set forth in this section which justify  
13 the imposition of a minimum term.

14 Unless the preponderance of mitigating factors set forth in  
15 subsection b. weighs in favor of a lower term within the limits  
16 authorized, sentences imposed pursuant to paragraph (1) of  
17 subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life  
18 imprisonment. Unless the preponderance of aggravating and  
19 mitigating factors set forth in subsections a. and b. weighs in favor  
20 of a higher or lower term within the limits authorized, sentences  
21 imposed pursuant to paragraph (2) of subsection a. of N.J.S.2C:43-7  
22 shall have a presumptive term of 50 years' imprisonment; sentences  
23 imposed pursuant to paragraph (3) of subsection a. of N.J.S.2C:43-7  
24 shall have a presumptive term of 15 years' imprisonment; and  
25 sentences imposed pursuant to paragraph (4) of subsection a. of  
26 N.J.S.2C:43-7 shall have a presumptive term of seven years'  
27 imprisonment.

28 In imposing a minimum term pursuant to subsection b. of  
29 N.J.S.2C:43-7, the sentencing court shall specifically place on the  
30 record the aggravating factors set forth in this section which justify  
31 the imposition of a minimum term.

32 (2) In cases of convictions for crimes of the first or second  
33 degree where the court is clearly convinced that the mitigating  
34 factors substantially outweigh the aggravating factors and where the  
35 interest of justice demands, the court may sentence the defendant to  
36 a term appropriate to a crime of one degree lower than that of the  
37 crime for which he was convicted. If the court does impose  
38 sentence pursuant to this paragraph, or if the court imposes a  
39 noncustodial or probationary sentence upon conviction for a crime  
40 of the first or second degree, such sentence shall not become final  
41 for 10 days in order to permit the appeal of such sentence by the  
42 prosecution.

43 g. Imposition of Noncustodial Sentences in Certain Cases. If  
44 the court, in considering the aggravating factors set forth in  
45 subsection a., finds the aggravating factor in paragraph (2), (5),  
46 (10), or (12) of subsection a. and does not impose a custodial  
47 sentence, the court shall specifically place on the record the

1 mitigating factors which justify the imposition of a noncustodial  
2 sentence.

3 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-  
4 11), the presumption of imprisonment as provided in subsection d.  
5 of this section shall not preclude the admission of a person to the  
6 Intensive Supervision Program, established pursuant to the Rules  
7 Governing the Courts of the State of New Jersey.  
8 (cf: P.L.2015, c.98, s.5)

9  
10 7. Section 1 of P.L.2006, c.28 (C.2B:12-17.2) is amended to  
11 read as follows:

12 1. a. In any matter concerning Title 39 of the Revised Statutes  
13 where death or serious bodily injury has occurred, regardless of  
14 whether the death or serious bodily injury is an element of the  
15 offense or violation, the Superior Court shall have exclusive  
16 jurisdiction over the offense or violation until such time that the  
17 Superior Court transfers the matter to the municipal court. For the  
18 purposes of this section, the term "serious bodily injury" shall have  
19 the meaning set forth in subsection b. of N.J.S.2C:11-1.

20 b. The Attorney General may develop guidelines establishing  
21 procedures to be followed for prosecutions involving violations of  
22 N.J.S.2C:11-4, N.J.S.2C:11-5 , section 1 of P.L. , c. (C. )  
23 (pending before the Legislature as this bill) or section 1 of  
24 P.L.1997, c.111 (C.2C:11-5.1) or criminal offenses involving  
25 serious bodily injury and underlying motor vehicle offenses arising  
26 from the same incident consistent with the provisions of P.L.2006,  
27 c.28 (C.2B:12-17.2 et al.).  
28 (cf: P.L.2006, c.28, s.1)

29  
30 8. N.J.S.2C:29-8 is amended to read as follows:  
31 2C:29-8. Corrupting or Influencing a Jury.

32 Any person who, directly or indirectly, corrupts, influences or  
33 attempts to corrupt or influence a jury or juror to be more favorable  
34 to the one side than to the other by promises, persuasions,  
35 entreaties, threats, letters, money, entertainment or other sinister  
36 means; or any person who employs any unfair or fraudulent  
37 practice, art or contrivance to obtain a verdict, or attempts to  
38 instruct a jury or juror beforehand at any place or time, or in any  
39 manner or way, except in open court at the trial of the cause, by the  
40 strength of the evidence, the arguments of the parties or their  
41 counsel, or the opinion or charge of the court is guilty of a crime.

42 a. Corrupting or influencing a jury is a crime of the first degree  
43 if the conduct occurs in connection with an official proceeding  
44 involving any of the following crimes, as enumerated in subsection  
45 d. of section 2 of P.L.1997, c.117 (C.2C:43-7.2), and the actor  
46 employs force or threat of force:

- 47 (1) N.J.S.2C:11-3, murder;  
48 (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;

1 (3) N.J.S.2C:11-5, reckless vehicular homicide or strict liability  
2 vehicular homicide under the provisions of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_)  
3 (pending before the Legislature as this bill);

4 (4) subsection b. of N.J.S.2C:12-1, aggravated assault;

5 (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11),  
6 disarming a law enforcement officer;

7 (6) N.J.S.2C:13-1, kidnapping;

8 (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;

9 (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of  
10 subsection c. of N.J.S.2C:14-2, sexual assault;

11 (9) N.J.S.2C:15-1, robbery;

12 (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;

13 (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated  
14 arson;

15 (12) N.J.S.2C:18-2, burglary;

16 (13) subsection a. of N.J.S.2C:20-5, extortion;

17 (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1),  
18 booby traps in manufacturing or distribution facilities;

19 (15) N.J.S.2C:35-9, strict liability for drug induced deaths;

20 (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;

21 (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or  
22 possessing chemical weapons, biological agents or nuclear or  
23 radiological devices; or

24 (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first  
25 degree.

26 b. Corrupting or influencing a jury is a crime of the second  
27 degree if the actor employs force or threat of force and the conduct  
28 occurs in connection with an action which does not involve any of  
29 the crimes enumerated in subsection a. of this section.

30 c. Otherwise, corrupting or influencing a jury is a crime of the  
31 third degree, provided, however, that the presumption of  
32 nonimprisonment set forth in subsection e. of 2C:44-1 for persons  
33 who have not previously been convicted of an offense shall not  
34 apply.

35 (cf: P.L.2009, c.169, s.1)

36

37 9. N.J.S.2C:52-2 is amended to read as follows:

38 2C:52-2. Indictable Offenses.

39 a. In all cases, except as herein provided, wherein a person has  
40 been convicted of a crime under the laws of this State and who has  
41 not been convicted of any prior or subsequent crime, whether within  
42 this State or any other jurisdiction, and has not been convicted of a  
43 disorderly persons or petty disorderly persons offense on more than  
44 two occasions may, after the expiration of a period of 10 years from  
45 the date of his most recent conviction, payment of fine, satisfactory  
46 completion of probation or parole, or release from incarceration for  
47 that crime or for any disorderly persons or petty disorderly persons  
48 offense, whichever is later, present an expungement application to

1 the Superior Court in the county in which the conviction for the  
2 crime was adjudged, which contains a duly verified petition as  
3 provided in N.J.S.2C:52-7 for the criminal conviction sought to be  
4 expunged, and may also contain additional duly verified petitions  
5 for no more than two convictions for any disorderly persons or petty  
6 disorderly persons offenses, praying that the conviction, or  
7 convictions if applicable, and all records and information pertaining  
8 thereto be expunged. The petition for each conviction appended to  
9 an application shall comply with the requirements set forth in  
10 N.J.S.2C:52-1 et seq.

11 Notwithstanding the provisions of the preceding paragraph, a  
12 petition may be filed and presented, and the court may grant an  
13 expungement pursuant to this section, although less than 10 years  
14 has expired in accordance with the requirements of the preceding  
15 paragraph where the court finds:

16 (1) less than 10 years has expired from the satisfaction of a fine,  
17 but the ten-year time requirement is otherwise satisfied, and the  
18 court finds that the person substantially complied with any payment  
19 plan ordered pursuant to N.J.S.2C:46-1 et seq., or could not do so  
20 due to compelling circumstances affecting his ability to satisfy the  
21 fine; or

22 (2) at least five years has expired from the date of his  
23 conviction, payment of fine, satisfactory completion of probation or  
24 parole, or release from incarceration, whichever is later; the person  
25 has not been convicted of a crime, disorderly persons offense, or  
26 petty disorderly persons offense since the time of the conviction;  
27 and the court finds in its discretion that expungement is in the  
28 public interest, giving due consideration to the nature of the  
29 offense, and the applicant's character and conduct since conviction.

30 In determining whether compelling circumstances exist for the  
31 purposes of paragraph (1) of this subsection, a court may consider  
32 the amount of the fine or fines imposed, the person's age at the time  
33 of the offense, the person's financial condition and other relevant  
34 circumstances regarding the person's ability to pay.

35 Although subsequent convictions for no more than two  
36 disorderly or petty disorderly persons offenses shall not be an  
37 absolute bar to relief, the nature of those conviction or convictions  
38 and the circumstances surrounding them shall be considered by the  
39 court and may be a basis for denial of relief if they or either of them  
40 constitute a continuation of the type of unlawful activity embodied  
41 in the criminal conviction for which expungement is sought.

42 b. Records of conviction pursuant to statutes repealed by this  
43 Code for the crimes of murder, manslaughter, treason, anarchy,  
44 kidnapping, rape, forcible sodomy, arson, perjury, false swearing,  
45 robbery, embracery, or a conspiracy or any attempt to commit any  
46 of the foregoing, or aiding, assisting or concealing persons accused  
47 of the foregoing crimes, shall not be expunged.

1 Records of conviction for the following crimes specified in the  
2 New Jersey Code of Criminal Justice shall not be subject to  
3 expungement: N.J.S.2C:11-1 et seq. (Criminal Homicide), except  
4 death by auto as specified in N.J.S.2C:11-5 and strict liability  
5 vehicular homicide as specified in section 1 of P.L. \_\_\_\_\_,  
6 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);  
7 N.J.S.2C:13-1 (Kidnapping); section 1 of P.L.1993, c.291  
8 (C.2C:13-6) (Luring or Enticing); section 1 of P.L.2005, c.77  
9 (C.2C:13-8) (Human Trafficking); N.J.S.2C:14-2 (Sexual Assault or  
10 Aggravated Sexual Assault); subsection a. of N.J.S.2C:14-3  
11 (Aggravated Criminal Sexual Contact); if the victim is a minor,  
12 subsection b. of N.J.S.2C:14-3 (Criminal Sexual Contact); if the  
13 victim is a minor and the offender is not the parent of the victim,  
14 N.J.S.2C:13-2 (Criminal Restraint) or N.J.S.2C:13-3 (False  
15 Imprisonment); N.J.S.2C:15-1 (Robbery); N.J.S.2C:17-1 (Arson  
16 and Related Offenses); subsection a. of N.J.S.2C:24-4 (Endangering  
17 the welfare of a child by engaging in sexual conduct which would  
18 impair or debauch the morals of the child, or causing the child other  
19 harm); paragraph (4) of subsection b. of N.J.S.2C:24-4  
20 (Photographing or filming a child in a prohibited sexual act);  
21 paragraph (3) of subsection b. of N.J.S.2C:24-4 (Causing or  
22 permitting a child to engage in a prohibited sexual act);  
23 subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4  
24 (Distributing, possessing with intent to distribute or using a file-  
25 sharing program to store items depicting the sexual exploitation or  
26 abuse of a child); subparagraph (b) of paragraph (5) of subsection b.  
27 of N.J.S.2C:24-4 (Possessing or viewing items depicting the sexual  
28 exploitation or abuse of a child); N.J.S.2C:28-1 (Perjury);  
29 N.J.S.2C:28-2 (False Swearing); paragraph (4) of subsection b. of  
30 N.J.S.2C:34-1 (Knowingly promoting the prostitution of the actor's  
31 child); section 2 of P.L.2002, c.26 (C.2C:38-2) (Terrorism);  
32 subsection a. of section 3 of P.L.2002, c.26 (C.2C:38-3) (Producing  
33 or Possessing Chemical Weapons, Biological Agents or Nuclear or  
34 Radiological Devices); and conspiracies or attempts to commit such  
35 crimes.

36 Records of conviction for any crime committed by a person  
37 holding any public office, position or employment, elective or  
38 appointive, under the government of this State or any agency or  
39 political subdivision thereof and any conspiracy or attempt to  
40 commit such a crime shall not be subject to expungement if the  
41 crime involved or touched such office, position or employment.

42 c. In the case of conviction for the sale or distribution of a  
43 controlled dangerous substance or possession thereof with intent to  
44 sell, expungement shall be denied except where the crimes involve:

45 (1) Marijuana, where the total quantity sold, distributed or  
46 possessed with intent to sell was 25 grams or less;

47 (2) Hashish, where the total quantity sold, distributed or  
48 possessed with intent to sell was five grams or less; or

1 (3) Any controlled dangerous substance provided that the  
2 conviction is of the third or fourth degree, where the court finds that  
3 expungement is consistent with the public interest, giving due  
4 consideration to the nature of the offense and the petitioner's  
5 character and conduct since conviction.

6 d. In the case of a State licensed physician or podiatrist  
7 convicted of an offense involving drugs or alcohol or pursuant to  
8 section 14 or 15 of P.L.1989, c.300 (C.2C:21-20 or 2C:21-4.1), the  
9 court shall notify the State Board of Medical Examiners upon  
10 receipt of a petition for expungement of the conviction and records  
11 and information pertaining thereto.

12 (cf: P.L.2015, c.261, s.2)

13

14 10. R.S.39:3-10 is amended to read as follows:

15 39:3-10. No person shall drive a motor vehicle on a public  
16 highway in this State unless the person is under supervision while  
17 participating in a behind-the-wheel driving course pursuant to  
18 section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a  
19 validated permit, or a probationary or basic driver's license issued to  
20 that person in accordance with this article.

21 No person under 18 years of age shall be issued a basic license to  
22 drive motor vehicles, nor shall a person be issued a validated  
23 permit, including a validated examination permit, until the applicant  
24 has passed a satisfactory examination and other requirements as to  
25 the applicant's ability as an operator. The examination shall include  
26 a test of the applicant's vision, the applicant's ability to understand  
27 traffic control devices, the applicant's knowledge of safe driving  
28 practices, including the dangers of driving a vehicle in an  
29 aggressive manner, which shall include, but not be limited to,  
30 unexpectedly altering the speed of a vehicle, making improper or  
31 erratic traffic lane changes, disregarding traffic control devices,  
32 failing to yield the right of way, and following another vehicle too  
33 closely, and of the effects that ingestion of alcohol or drugs has on a  
34 person's ability to operate a motor vehicle, the applicant's  
35 knowledge of such portions of the mechanism of motor vehicles as  
36 is necessary to insure the safe operation of a vehicle of the kind or  
37 kinds indicated by the applicant, and of the laws and ordinary  
38 usages of the road. No person shall sit for an examination for any  
39 permit without exhibiting photo identification deemed acceptable  
40 by the commission, unless that person is a high school student  
41 participating in a course of automobile driving education approved  
42 by the State Department of Education and conducted in a public,  
43 parochial, or private school of this State, pursuant to section 1 of  
44 P.L.1950, c.127 (C.39:3-13.1). The commission may waive the  
45 written law knowledge examination for any person 18 years of age  
46 or older possessing a valid driver's license issued by any other state,  
47 the District of Columbia, or the United States Territories of  
48 American Samoa, Guam, Puerto Rico, or the Virgin Islands. The

1 commission shall be required to provide that person with a booklet  
2 that highlights those motor vehicle laws unique to New Jersey. A  
3 road test shall be required for a probationary license and serve as a  
4 demonstration of the applicant's ability to operate a vehicle of the  
5 class designated. No person shall sit for a road test unless that  
6 person exhibits photo identification deemed acceptable by the  
7 commission. A high school student who has completed a course of  
8 behind-the-wheel automobile driving education approved by the  
9 State Department of Education and conducted in a public, parochial,  
10 or private school of this State, who has been issued a special  
11 learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-  
12 13.1) prior to January 1, 2003, shall not be required to exhibit photo  
13 identification in order to sit for a road test. The commission may  
14 waive the road test for any person 18 years of age or older  
15 possessing a valid driver's license issued by any other state, the  
16 District of Columbia, or the United States Territories of American  
17 Samoa, Guam, Puerto Rico, or the Virgin Islands. The road test  
18 shall be given on public streets, where practicable and feasible, but  
19 may be preceded by an off-street screening process to assess basic  
20 skills. The commission shall approve locations for the road test  
21 which pose no more than a minimal risk of injury to the applicant,  
22 the examiner, and other motorists. No new locations for the road  
23 test shall be approved unless the test can be given on public streets.

24 A person who successfully completes a road test for a  
25 motorcycle license or a motorcycle endorsement when operating a  
26 motorcycle or motorized scooter with an engine displacement of  
27 less than 231 cubic centimeters shall be issued a motorcycle license  
28 or endorsement restricting the person's operation of such vehicles to  
29 any motorcycle with an engine displacement of 500 cubic  
30 centimeters or less. A person who successfully completes a road  
31 test for a motorcycle license or motorcycle endorsement when  
32 operating a motorcycle with an engine displacement of 231 or more  
33 cubic centimeters shall be issued a motorcycle license or  
34 endorsement without any restriction as to engine displacement.  
35 Any person who successfully completes an approved motorcycle  
36 safety education course established pursuant to the provisions of  
37 section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a  
38 motorcycle license or endorsement without restriction as to engine  
39 displacement.

40 The commission shall issue a basic driver's license to operate a  
41 motor vehicle other than a motorcycle to a person over 18 years of  
42 age who previously has not been licensed to drive a motor vehicle  
43 in this State or another jurisdiction only if that person has: (1)  
44 operated a passenger automobile in compliance with the  
45 requirements of this title for not less than one year, not including  
46 any period of suspension or postponement, from the date of  
47 issuance of a probationary license pursuant to section 4 of  
48 P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two

1 motor vehicle points; (3) not been convicted in the previous year for  
2 a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-  
3 50.4a), P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-  
4 5, section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
5 Legislature as this bill), subsection c. of N.J.S.2C:12-1, or any other  
6 motor vehicle-related violation the commission determines to be  
7 significant and applicable pursuant to regulation; and (4) passed an  
8 examination of the applicant's ability to operate a motor vehicle  
9 pursuant to this section.

10 The commission shall expand the driver's license examination by  
11 20%. The additional questions to be added shall consist solely of  
12 questions developed in conjunction with the Department of Health  
13 concerning the use of alcohol or drugs as related to highway safety.  
14 The commission shall develop, in conjunction with the Department  
15 of Health, supplements to the driver's manual which shall include  
16 information necessary to answer any question on the driver's license  
17 examination concerning alcohol or drugs as related to highway  
18 safety.

19 Up to 20 questions may be added to the examination on subjects  
20 to be determined by the commission that are of particular relevance  
21 to youthful drivers, including the dangers of driving a vehicle in an  
22 aggressive manner, which shall include, but not be limited to,  
23 unexpectedly altering the speed of a vehicle, making improper or  
24 erratic traffic lane changes, disregarding traffic control devices,  
25 failing to yield the right of way, and following another vehicle too  
26 closely, after consultation with the Director of the Division of  
27 Highway Traffic Safety in the Department of Law and Public  
28 Safety.

29 The commission shall expand the driver's license examination to  
30 include a question asking whether the applicant is aware of the  
31 provisions of the "Revised Uniform Anatomical Gift Act,"  
32 P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on  
33 the driver's license the intention to make a donation of body organs  
34 or tissues pursuant to P.L.1978, c.181 (C.39:3-12.2).

35 The commission shall expand the driver's license examination to  
36 include a question asking whether the applicant is aware of the  
37 dangers of failing to comply with this State's motor vehicle traffic  
38 laws and the "STOP for Nikhil Safety Pledge" set forth in  
39 subsection e. of R.S.39:3-41.

40 Any person applying for a driver's license to operate a motor  
41 vehicle or motorized bicycle in this State shall surrender to the  
42 commission any current driver's license issued to the applicant by  
43 another state or jurisdiction upon the applicant's receipt of a driver's  
44 license for this State. The commission shall refuse to issue a  
45 driver's license if the applicant fails to comply with this provision.  
46 An applicant for a permit or license who is less than 18 years of  
47 age, and who holds a permit or license for a passenger automobile  
48 issued by another state or country that is valid or has expired within

1 a time period designated by the commission, shall be subject to the  
2 permit and license requirements and penalties applicable to State  
3 permit and license applicants who are of the same age; except that if  
4 the other state or country has permit or license standards  
5 substantially similar to those of this State, the credentials of the  
6 other state or country shall be acceptable.

7 The commission shall create classified licensing of drivers  
8 covering the following classifications:

9 a. Motorcycles, except that for the purposes of this section,  
10 motorcycle shall not include any three-wheeled motor vehicle  
11 equipped with a single cab with glazing enclosing the occupant,  
12 seats similar to those of a passenger vehicle or truck, seat belts and  
13 automotive steering or any vehicle defined as a motorcycle pursuant  
14 to R.S.39:1-1 having a motor with a maximum piston displacement  
15 that is less than 50 cubic centimeters or a motor that is rated at no  
16 more than 1.5 brake horsepower with a maximum speed of no more  
17 than 35 miles per hour on a flat surface.

18 b. Omnibuses as classified by R.S.39:3-10.1 and school buses  
19 classified under N.J.S.18A:39-1 et seq.

20 c. (Deleted by amendment, P.L.1999, c.28).

21 d. All motor vehicles not included in classifications a. and b. A  
22 license issued pursuant to this classification d. shall be referred to  
23 as the "basic driver's license."

24 Every applicant for a license under classification b. shall be a  
25 holder of a basic driver's license. Any issuance of a license under  
26 classification b. shall be by endorsement on the basic driver's  
27 license.

28 A driver's license for motorcycles may be issued separately, but  
29 if issued to the holder of a basic driver's license, it shall be by  
30 endorsement on the basic driver's license. The holder of a basic  
31 driver's license or a separately issued motorcycle license shall be  
32 authorized to operate a motorcycle having a motor with a maximum  
33 piston displacement that is less than 50 cubic centimeters or a motor  
34 that is rated at no more than 1.5 brake horsepower with a maximum  
35 speed no more than 35 miles per hour on a flat surface.

36 The commission, upon payment of the lawful fee and after it or a  
37 person authorized by it has examined the applicant and is satisfied  
38 of the applicant's ability as an operator, may, in its discretion, issue  
39 a license to the applicant to drive a motor vehicle. The license shall  
40 authorize him to drive any registered vehicle, of the kind or kinds  
41 indicated, and shall expire, except as otherwise provided, on the last  
42 day of the 48th calendar month following the calendar month in  
43 which such license was issued.

44 The commission may, at its discretion and for good cause shown,  
45 issue licenses which shall expire on a date fixed by it. If the  
46 commission issues a license to a person who has demonstrated  
47 authorization to be present in the United States for a period of time  
48 shorter than the standard period of the license, the commission shall

1 fix the expiration date of the license at a date based on the period in  
2 which the person is authorized to be present in the United States  
3 under federal immigration laws. The commission may renew such a  
4 license only if it is demonstrated that the person's continued  
5 presence in the United States is authorized under federal law. The  
6 fee for licenses with expiration dates fixed by the commission shall  
7 be fixed by the commission in amounts proportionately less or  
8 greater than the fee herein established.

9 The required fee for a license for the 48-month period shall be as  
10 follows:

11 Motorcycle license or endorsement: \$18.

12 Omnibus or school bus endorsement: \$18.

13 Basic driver's license: \$18.

14 The commission shall waive the payment of fees for issuance of  
15 omnibus endorsements whenever an applicant establishes to the  
16 commission's satisfaction that said applicant will use the omnibus  
17 endorsement exclusively for operating omnibuses owned by a  
18 nonprofit organization duly incorporated under Title 15 or 16 of the  
19 Revised Statutes or Title 15A of the New Jersey Statutes.

20 The commission shall issue licenses for the following license  
21 period on and after the first day of the calendar month immediately  
22 preceding the commencement of such period, such licenses to be  
23 effective immediately.

24 All applications for renewals of licenses shall be made in a  
25 manner prescribed by the commission and in accordance with  
26 procedures established by it.

27 The commission in its discretion may refuse to grant a permit or  
28 license to drive motor vehicles to a person who is, in its estimation,  
29 not a proper person to be granted such a permit or license, but no  
30 defect of the applicant shall debar the applicant from receiving a  
31 permit or license unless it can be shown by tests approved by the  
32 commission that the defect incapacitates the applicant from safely  
33 operating a motor vehicle.

34 In addition to requiring an applicant for a driver's license to  
35 submit satisfactory proof of identity and age, the commission also  
36 shall require the applicant to provide, as a condition for obtaining a  
37 permit and license, satisfactory proof that the applicant's presence  
38 in the United States is authorized under federal law.

39 If the commission has reasonable cause to suspect that any  
40 document presented by an applicant as proof of identity, age or  
41 legal residency is altered, false or otherwise invalid, the  
42 commission shall refuse to grant the permit or license until such  
43 time as the document may be verified by the issuing agency to the  
44 commission's satisfaction.

45 A person violating this section shall be subject to a fine not  
46 exceeding \$500 or imprisonment in the county jail for not more  
47 than 60 days, but if that person has never been licensed to drive in  
48 this State or any other jurisdiction, the applicant shall be subject to

1 a fine of not less than \$200 and, in addition, the court shall issue an  
2 order to the commission requiring the commission to refuse to issue  
3 a license to operate a motor vehicle to the person for a period of not  
4 less than 180 days. The penalties provided for by this paragraph  
5 shall not be applicable in cases where failure to have actual  
6 possession of the operator's license is due to an administrative or  
7 technical error by the commission.

8 Nothing in this section shall be construed to alter or extend the  
9 expiration of any license issued prior to the date this amendatory  
10 and supplementary act becomes operative.

11 (cf: P.L.2015, c.78, s.1)

12

13 11. R.S.39:3-13 is amended to read as follows:

14 39:3-13. The chief administrator may, in the chief administrator's  
15 discretion, issue to a person over 17 years of age an examination  
16 permit, under the hand and seal of the chief administrator, allowing  
17 such person, for the purpose of fitting the person to become a  
18 licensed driver, to operate a designated class of motor vehicles  
19 other than passenger automobiles and motorcycles for a specified  
20 period of not more than 90 days, while in the company and under  
21 the supervision of a driver licensed to operate such designated class  
22 of motor vehicles.

23 The chief administrator, in the chief administrator's discretion,  
24 may issue for a specified period of not less than one year a  
25 passenger automobile or motorcycle-only examination permit to a  
26 person over 17 years of age regardless of whether a person has  
27 completed a course of behind-the-wheel automobile driving  
28 education pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1).  
29 An examination permit applicant who is under 18 years of age shall  
30 obtain the signature of a parent or guardian for submission to the  
31 commission on a form prescribed by the chief administrator. The  
32 chief administrator shall postpone for six months the driving  
33 privileges of any person who submits a fraudulent signature for a  
34 parent or guardian.

35 For six months immediately following the validation of an  
36 examination permit, and until the holder passes the road test, the  
37 holder who is less than 21 years of age shall operate the passenger  
38 automobile only when accompanied by, and under the supervision  
39 of, a New Jersey licensed driver who is at least 21 years of age and  
40 has been licensed to drive a passenger automobile for not less than  
41 three years. The holder of an examination permit who is at least 21  
42 years of age shall operate the passenger automobile for the first  
43 three months under such supervision and until the holder passes the  
44 road test. The supervising driver of the passenger automobile shall  
45 sit in the front seat of the vehicle. Whenever operating a vehicle  
46 while in possession of an examination permit, the holder of the  
47 permit shall operate the passenger automobile with only one  
48 additional passenger in the vehicle excluding dependents of the

1 permit holder, except that this passenger restriction shall not apply  
2 when the permit holder is at least 21 years of age or when the  
3 permit holder is accompanied by a parent or guardian. Further, the  
4 holder of the passenger automobile permit who is less than 21 years  
5 of age shall not drive during the hours between 11:01 p.m. and 5  
6 a.m.; provided, however, that this condition may be waived for an  
7 emergency which, in the judgment of local police, is of sufficient  
8 severity and magnitude to substantially endanger the health, safety,  
9 welfare, or property of a person, or for any bona fide employment  
10 or religion-related activity if the employer or appropriate religious  
11 authority provides written verification of such activity in a manner  
12 provided for by the chief administrator. The holder of the  
13 examination permit shall not use any hand-held or hands-free  
14 interactive wireless communication device, except in an emergency,  
15 while operating a moving passenger automobile on a public road or  
16 highway. "Use" shall include, but not be limited to, talking or  
17 listening on any hand-held or hands-free interactive wireless  
18 communication device or operating its keys, buttons, or other  
19 controls. The passenger automobile permit holder shall ensure that  
20 all occupants of the vehicle are secured in a properly adjusted and  
21 fastened seat belt or child restraint system.

22 The holder of an examination permit subject to the provisions of  
23 section 1 of P.L.1977, c.23 (C.39:3-10b) shall not operate a  
24 motorcycle at any time from a half-hour after sunset to a half-hour  
25 before sunrise. A motorcycle operated by the holder of an  
26 examination permit shall carry only the operator and shall not be  
27 operated on any toll road over which the New Jersey Turnpike  
28 Authority or the South Jersey Transportation Authority has  
29 jurisdiction or on any limited-access interstate highway.

30 The holder of any examination permit shall not operate a  
31 motorcycle having a motor with a maximum piston displacement  
32 that is less than 50 cubic centimeters or a motor that is rated at no  
33 more than 1.5 brake horsepower with a maximum speed of no more  
34 than 35 miles per hour on a flat surface at anytime from a half-hour  
35 after sunset to a half-hour before sunrise and shall not operate the  
36 motorcycle with any other passenger. The holder of any  
37 examination permit shall not operate such a motorcycle upon  
38 limited-access interstate highways or public roads or highways with  
39 a posted speed limit greater than 35 miles per hour.

40 An applicant for an examination permit subject to the provisions  
41 of section 1 of P.L.1977, c.23 (C.39:3-10b), who is less than 18  
42 years of age, shall be required to successfully complete a  
43 motorcycle safety education course established pursuant to the  
44 provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) as a  
45 condition for obtaining a motorcycle license or endorsement.

46 The chief administrator shall provide the holder of an  
47 examination permit with two removable, transferable, highly  
48 visible, reflective decals indicating that the driver of the vehicle

1 may be the holder of an examination permit. The decals shall be  
2 designed by the chief administrator, in consultation with the  
3 Division of Highway Traffic Safety in the Department of Law and  
4 Public Safety. The chief administrator may charge a fee for the  
5 decals not to exceed the actual cost of producing and distributing  
6 the decals. The decals shall be displayed in a manner prescribed by  
7 the chief administrator, in consultation with the Division of  
8 Highway Traffic Safety in the Department of Law and Public  
9 Safety, and shall be clearly visible to law enforcement officers. The  
10 holder of an examination permit shall not operate a vehicle unless  
11 the decals are displayed. The decal shall be removed once the  
12 driver's examination permit period has ended.

13 When notified by a court of competent jurisdiction that an  
14 examination permit holder has been convicted of a violation which  
15 causes the permit holder to accumulate more than two motor vehicle  
16 points or has been convicted of a violation of R.S.39:4-50; section 2  
17 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189 (C.39:4-50.14);  
18 R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill), subsection c. of  
20 N.J.S.2C:12-1; or any other motor vehicle-related law the chief  
21 administrator deems significant and applicable pursuant to  
22 regulation, in addition to any other penalty that may be imposed,  
23 the chief administrator shall, without the exercise of discretion or a  
24 hearing, suspend the examination permit holder's examination  
25 permit for 90 days. The chief administrator shall restore the permit  
26 following the term of the permit suspension if the permit holder  
27 satisfactorily completes a remedial training course of not less than  
28 four hours which may be given by the commission, a driving school  
29 licensed by the chief administrator pursuant to section 2 of  
30 P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization  
31 approved by the chief administrator. The course shall be subject to  
32 oversight by the commission according to its guidelines. The  
33 permit holder shall also remit a course fee prior to the  
34 commencement of the course. The chief administrator also shall  
35 postpone without the exercise of discretion or a hearing the issuance  
36 of a basic license for 90 days if the chief administrator is notified by  
37 a court of competent jurisdiction that the examination permit  
38 holder, after completion of the remedial training course, has been  
39 convicted of any motor vehicle violation which results in the  
40 imposition of any motor vehicle points or has been convicted of a  
41 violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-  
42 50.4a); P.L.1992, c.182 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-  
43 5, subsection c. of N.J.S.2C:12-1 or any other motor vehicle-related  
44 law the chief administrator deems significant and applicable  
45 pursuant to regulation. When the chief administrator is notified by  
46 a court of competent jurisdiction that an examination permit holder  
47 has been convicted of any alcohol or drug-related offense unrelated  
48 to the operation of a motor vehicle and is not otherwise subject to

1 any other suspension penalty therefor, the chief administrator shall,  
2 without the exercise of discretion or a hearing, suspend the  
3 examination permit for six months.

4 An examination permit for a motorcycle or a commercial motor  
5 vehicle issued to a handicapped person, as determined by the New  
6 Jersey Motor Vehicle Commission after consultation with the  
7 Department of Education, shall be valid for nine months or until the  
8 completion of the road test portion of his license examination,  
9 whichever period is shorter.

10 Each permit shall be sufficient license for the person to operate  
11 such designated class of motor vehicles in this State during the  
12 period specified, while in the company of and under the control of a  
13 driver licensed by this State to operate such designated class of  
14 motor vehicles, or, in the case of a commercial driver license  
15 permit, while in the company of and under the control of a holder of  
16 a valid commercial driver license for the appropriate license class  
17 and with the appropriate endorsements issued by this or any other  
18 state. Such person, as well as the licensed driver, except for a motor  
19 vehicle examiner administering a driving skills test, shall be held  
20 accountable for all violations of this subtitle committed by such  
21 person while in the presence of the licensed driver. In addition to  
22 requiring an applicant for an examination permit to submit  
23 satisfactory proof of identity and age, the chief administrator also  
24 shall require the applicant to provide, as a condition for obtaining  
25 the permit, satisfactory proof that the applicant's presence in the  
26 United States is authorized under federal law. If the chief  
27 administrator has reasonable cause to suspect that any document  
28 presented by an applicant as proof of identity, age, or legal  
29 residency is altered, false, or otherwise invalid, the chief  
30 administrator shall refuse to grant the permit until such time as the  
31 document may be verified by the issuing agency to the chief  
32 administrator's satisfaction.

33 The holder of an examination permit shall be required to take a  
34 road test in order to obtain a probationary license. No road test for  
35 any person who has been issued an examination permit to operate a  
36 passenger vehicle shall be given unless the person has met the  
37 requirements of this section. No road test for a probationary license  
38 shall be given unless the applicant has first secured an examination  
39 permit and no such road test shall be scheduled for an applicant  
40 who has secured an examination permit for a passenger vehicle or a  
41 motorcycle for which an endorsement is not required until at least  
42 six months for an applicant under 21 years of age or three months  
43 for an applicant 21 years of age or older shall have elapsed  
44 following the validation of the examination permit for practice  
45 driving or, in the case of an examination permit for other vehicles,  
46 until 20 days have elapsed. In the case of an omnibus endorsement  
47 or school bus, no road test shall be scheduled until at least 10 days  
48 shall have elapsed. Every applicant for an examination permit to

1 qualify for an omnibus endorsement or an articulated vehicle  
2 endorsement shall be a holder of a valid basic driver's license.

3 The required fees for special learner's permits and examination  
4 permits shall be as follows:

- 5 Basic driver's license.....up to \$10
- 6 Motorcycle license or endorsement.....\$ 5
- 7 Omnibus or school bus endorsement.....\$25

8 The chief administrator shall waive the payment of fees for  
9 issuance of examination permits for omnibus endorsements  
10 whenever the applicant establishes to the chief administrator's  
11 satisfaction that said applicant will use the omnibus endorsement  
12 exclusively for operating omnibuses owned by a nonprofit  
13 organization duly incorporated under Title 15 or 16 of the Revised  
14 Statutes or Title 15A of the New Jersey Statutes.

15 The specified period for which a permit is issued may be  
16 extended for not more than an additional 60 days, without payment  
17 of an added fee, upon application made by the holder thereof, where  
18 the holder has applied to take the examination for a driver's license  
19 prior to the expiration of the original period for which the permit  
20 was issued and the chief administrator was unable to schedule an  
21 examination during said period.

22 As a condition for the issuance of an examination permit under  
23 this section, the chief administrator shall secure a digitized picture  
24 of the applicant. The picture shall be stored in a manner prescribed  
25 by the chief administrator and may be displayed on the examination  
26 permit.

27 The chief administrator may require that whenever a person to  
28 whom an examination permit has been issued has reconstructive or  
29 cosmetic surgery which significantly alters the person's facial  
30 features, the person shall notify the chief administrator who may  
31 require the picture of the person to be updated.

32 Specific use of the examination permit and any information  
33 stored or encoded, electronically or otherwise, in relation thereto  
34 shall be in accordance with P.L.1997, c.188 (C.39:2-3.3 et seq.) and  
35 the federal Driver's Privacy Protection Act of 1994, Pub.L.103-322.  
36 Notwithstanding the provisions of any other law to the contrary, the  
37 digitized picture or any access thereto or any use thereof shall not  
38 be sold, leased, or exchanged for value.<sup>1</sup>

39 (cf: P.L.2011, c.13, s.3)

40

41 12. Section 6 of P.L.1977, c.25 (C.39:3-13.2a) is amended to  
42 read as follows:

43 6. a. Any person to whom a special learner's permit has been  
44 issued pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1), upon  
45 successful completion of a State approved written examination, eye  
46 examination, and an approved minimum six-hour behind-the-wheel  
47 driving course, shall be entitled to retain the special learner's permit  
48 in his own possession. The special learner's permit shall be

1 validated by the commission for the purpose of driving a motor  
2 vehicle on a public highway in this State after the holder has  
3 successfully met the necessary examination requirements, and upon  
4 the successful completion of a behind-the-wheel driving course.  
5 Such person may operate a motor vehicle of the class for which a  
6 basic driver's license is required except during the hours between  
7 11:01 p.m. and 5:00 a.m. while in the company and under the  
8 supervision, from the front passenger seat, of a licensed motor  
9 vehicle driver of this State who is over 21 years of age and has been  
10 licensed to drive a passenger automobile for at least three years.  
11 Such special permit shall be valid until such person's seventeenth  
12 birthday or until he qualifies for a probationary license. Except  
13 during an instructional period of a behind-the-wheel driving course,  
14 the holder of a special permit shall operate a passenger automobile  
15 with only the following passengers: (1) the supervising passenger;  
16 (2) any parent, guardian, or dependent of the special permit holder;  
17 and (3) one additional passenger. The holder of the special learner's  
18 permit shall not use any hand-held or hands-free interactive  
19 wireless communication device, except in an emergency, while  
20 operating a moving passenger automobile on a public road or  
21 highway. "Use" shall include, but not be limited to, talking or  
22 listening on any hand-held or hands-free interactive wireless  
23 communication device or operating its keys, buttons, or other  
24 controls. All occupants of the automobile shall be secured in a  
25 properly adjusted and fastened seat belt or child restraint system.

26 The chief administrator shall provide the holder of a special  
27 learner's permit with two removable, transferable, highly visible,  
28 reflective decals indicating that the driver of the vehicle may be the  
29 holder of a special learner's permit. The decals shall be designed by  
30 the chief administrator, in consultation with the Division of  
31 Highway Traffic Safety in the Department of Law and Public  
32 Safety. The chief administrator may charge a fee for the decals not  
33 to exceed the actual cost of producing and distributing the decals.  
34 The decals shall be displayed in a manner prescribed by the chief  
35 administrator, in consultation with the Division of Highway Traffic  
36 Safety in the Department of Law and Public Safety, and shall be  
37 clearly visible to law enforcement officers. The holder of a special  
38 learner's permit shall not operate a vehicle unless the decals are  
39 displayed. The decal shall be removed once the driver's special  
40 learner's permit period has ended.

41 b. When notified by a court of competent jurisdiction that a  
42 special learner's permit holder has been convicted of a violation  
43 which causes the permit holder to accumulate more than two motor  
44 vehicle points or has been convicted of a violation of R.S.39:4-50;  
45 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189  
46 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. \_\_\_\_\_,  
47 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill),  
48 subsection c. of N.J.S.2C:12-1; or any other motor vehicle-related

1 law the chief administrator determines to be significant and  
2 applicable pursuant to regulation, and in addition to any other  
3 penalty that may be imposed, the chief administrator shall, without  
4 the exercise of discretion or a hearing, suspend the holder's special  
5 learner's permit for 90 days. The chief administrator shall restore  
6 the permit following the term of the permit suspension if the permit  
7 holder, regardless of age, satisfactorily completes a remedial  
8 training course of not less than four hours which may be given by  
9 the commission, a driving school licensed by the chief administrator  
10 pursuant to section 2 of P.L.1951, c.216 (C.39:12-2), or any  
11 Statewide safety organization approved by the chief administrator.  
12 The course shall be administered pursuant to rules and regulations  
13 promulgated by the chief administrator and subject to oversight by  
14 the commission. The authority of the chief administrator to  
15 suspend, revoke, or deny issuance of an initial or renewal license to  
16 operate a driving school or an instructor's license, and to assess  
17 fines, pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) shall apply to  
18 any violations related to the administration of a remedial training  
19 course. The permit holder shall also remit a course fee prior to the  
20 commencement of the course. If, after completion of the remedial  
21 training course, the chief administrator is notified by a court of  
22 competent jurisdiction that the special learner's permit holder has  
23 been convicted of any motor vehicle violation which results in the  
24 imposition of any motor vehicle points or has been convicted of a  
25 violation of R.S.39:4-50; section 2 of P.L.1981, c.512 (C.39:4-  
26 50.4a); P.L.1992, c.189 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-  
27 5; subsection c. of N.J.S.2C:12-1; or any other motor vehicle-  
28 related law the chief administrator deems significant and applicable  
29 pursuant to regulation, the chief administrator, without the exercise  
30 of discretion or a hearing, shall also postpone the issuance of a  
31 basic license for 90 days. When the chief administrator is notified  
32 by a court of competent jurisdiction that a special learner's permit  
33 holder has been convicted of any alcohol or drug-related offense  
34 unrelated to the operation of a motor vehicle and he is not otherwise  
35 subject to any other suspension penalty therefor, the chief  
36 administrator shall, without the exercise of discretion or a hearing,  
37 suspend the special learner's permit for six months.  
38 (cf: P.L.2009, c.38, s.8)

39

40 13. Section 4 of P.L.1950, c.127 (C.39:3-13.4) is amended to  
41 read as follows:

42 4. a. The holder of a special learner's permit shall be entitled  
43 to a probationary driver's license (1) upon attaining the age of 17  
44 years, (2) upon the satisfactory completion of an approved behind-  
45 the-wheel driver training course as indicated upon the face of the  
46 special permit over the signature of the principal of the school or  
47 the person operating the driving school in which the course was  
48 conducted, (3) upon the completion of six months' driving

1 experience with a validated special learner's permit in compliance  
2 with the provisions of section 6 of P.L.1977, c.25 (C.39:3-13.2a),  
3 and (4) upon passing the road test pursuant to R.S.39:3-10.

4 b. The holder of a probationary license shall be permitted to  
5 operate the passenger automobile with only one additional  
6 passenger in the vehicle besides any dependent of the probationary  
7 license holder, except that this passenger restriction shall not apply  
8 when the holder of the probationary license is at least 21 years of  
9 age or the probationary license holder is accompanied by a parent or  
10 guardian. Further, the holder of the probationary license who is  
11 under 21 years of age shall not drive during the hours between  
12 11:01 p.m. and 5 a.m.; provided however, that this condition may  
13 be waived for an emergency which, in the judgment of local police,  
14 is of sufficient severity and magnitude to substantially endanger the  
15 health, safety, welfare, or property of a person or for any bona fide  
16 employment or religion-related activity if the employer or  
17 appropriate religious authority provides written verification of such  
18 activity in a manner provided for by the chief administrator.

19 c. The holder of the probationary license shall not use any  
20 hand-held or hands-free interactive wireless communication device,  
21 except in an emergency, while operating a moving passenger  
22 automobile on a public road or highway. "Use" shall include, but  
23 not be limited to, talking or listening on any hand-held or hands-  
24 free interactive wireless communication device or operating its  
25 keys, buttons, or other controls. In addition, the holder of the  
26 probationary license shall ensure that all occupants of the vehicle  
27 are secured in a properly adjusted and fastened seat belt or child  
28 restraint system.

29 d. In addition to any other penalties provided under law, the  
30 holder of a probationary license who accumulates more than two  
31 motor vehicle points or is convicted of a violation of R.S.39:4-50;  
32 section 2 of P.L.1981, c.512 (C.39:4-50.4a); P.L.1992, c.189  
33 (C.39:4-50.14); R.S.39:4-129; N.J.S.2C:11-5; section 1 of P.L. \_\_\_\_\_,  
34 c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature as this bill);  
35 subsection c. of N.J.S.2C:12-1; or any other motor vehicle law the  
36 chief administrator deems to be significant and applicable pursuant  
37 to regulation shall, for the first violation, be required to  
38 satisfactorily complete a remedial training course of not less than  
39 four hours which may be given by the commission, a driving school  
40 licensed by the chief administrator pursuant to section 2 of  
41 P.L.1951, c.216 (C.39:12-2), or any Statewide safety organization  
42 approved by the chief administrator. The course shall be  
43 administered pursuant to rules and regulations promulgated by the  
44 chief administrator and subject to oversight by the commission.  
45 The authority of the chief administrator to suspend, revoke, or deny  
46 issuance of an initial or renewal license to operate a driving school  
47 or an instructor's license, and to assess fines, pursuant to P.L.1951,  
48 c.216 (C.39:12-1 et seq.) shall apply to any violations related to the

1 administration of a remedial training course. The license holder  
2 shall also remit a course fee prior to the commencement of the  
3 course.

4 e. When notified by a court of competent jurisdiction that a  
5 probationary license holder has been convicted of a second or  
6 subsequent violation, in addition to any other penalties provided  
7 under law, the chief administrator shall, without the exercise of  
8 discretion or a hearing, suspend the probationary license for three  
9 months, and shall postpone eligibility for a basic license for an  
10 equivalent period. In addition, when the chief administrator is  
11 notified by a court of competent jurisdiction that a probationary  
12 license holder has been convicted of any alcohol or drug-related  
13 offense unrelated to the operation of a motor vehicle, and he is not  
14 otherwise subject to any other suspension penalty therefor, the chief  
15 administrator shall, without the exercise of discretion or a hearing,  
16 suspend the probationary license for six months.

17 f. The chief administrator shall provide the holder of a  
18 probationary license with two removable, transferable, highly  
19 visible, reflective decals indicating that the driver of the vehicle  
20 may be the holder of a probationary license. The decals shall be  
21 designed by the chief administrator, in consultation with the  
22 Division of Highway Traffic Safety in the Department of Law and  
23 Public Safety. The chief administrator may charge a fee for the  
24 decals not to exceed the actual cost of producing and distributing  
25 the decals. The decals shall be displayed in a manner prescribed by  
26 the chief administrator, in consultation with the Division of  
27 Highway Traffic Safety in the Department of Law and Public  
28 Safety, and shall be clearly visible to law enforcement officers. The  
29 holder of a probationary license shall not operate a vehicle unless  
30 the decals are displayed. The decal shall be removed once the  
31 driver's probationary license period has ended.

32 g. A probationary license may be sent by mail and shall be  
33 clearly identifiable and distinguishable in appearance from a basic  
34 license by any name, mark, color, or device deemed appropriate by  
35 the chief administrator.

36 (cf: P.L.2009, c.38, s.9)

37

38 14. Section 3 of P.L.1959, c.56 (C.39:3-33.5) is amended to read  
39 as follows:

40 3. Except as provided for courtesy marks in section 2 of  
41 P.L.2000, c.15 (C.39:3-33.5a), no particular identifying mark or  
42 special organization license plate issued pursuant to P.L.1987, c.374  
43 (C.39:3-27.35) may be issued to any applicant who:

44 (a) for the 10-year period next preceding the date of application  
45 for a particular identifying mark or special organization license  
46 plate has been convicted of a violation of either section 39:4-50, or  
47 section 39:4-96 of this Title or section 2 of P.L.1966, c.142 (C.39:4-

1 50.2) or has been convicted of a violation of a law of a substantially  
2 similar nature in another jurisdiction; or  
3 (b) has been convicted of a violation of N.J.S.2C:11-5 or section  
4 1 of P.L. , c. (C. ) (pending before the Legislature as this  
5 bill); or  
6 (c) for the two-year period next preceding his application for a  
7 particular identifying mark or a special organization license plate  
8 has had his driving privileges in this State or in another jurisdiction  
9 revoked or suspended for any reason whatsoever.  
10 (cf: P.L.2000, c.15, s.1)

11  
12 15. Section 2 of P.L.2000, c.15 (C.39:3-33.5a) is amended to  
13 read as follows:

14 2. No courtesy mark may be issued to any applicant who:  
15 a. has been convicted of a violation of either section 39:4-50,  
16 or section 39:4-96 of this Title or section 2 of P.L.1966, c.142  
17 (C.39:4-50.2) or has been convicted of a violation of a law of a  
18 substantially similar nature in another jurisdiction; or  
19 b. has been convicted of a violation of N.J.S.2C:11-5 or section  
20 1 of P.L. , c. (C. ) (pending before the Legislature as this  
21 bill); or  
22 c. for the two-year period next preceding his application for a  
23 courtesy mark has had his driving privileges in this State or in  
24 another jurisdiction revoked or suspended for any reason  
25 whatsoever.  
26 (cf: P.L.2000, c.15, s.2)

27  
28 16. Section 7 of P.L.2011, c.13 (C.39:3-76.11) is amended to  
29 read as follows:

30 7. A motorcycle having a motor with a maximum piston  
31 displacement that is less than 50 cubic centimeters or a motor that is  
32 rated at no more than 1.5 brake horsepower with a maximum speed  
33 of no more than 35 miles per hour on a flat surface shall not be  
34 operated upon limited-access interstate highways or public roads or  
35 highways with posted speed limits greater than 35 miles per hour.  
36 Every person operating a motorcycle upon a public road or  
37 highway shall be subject to all of the duties applicable to the driver  
38 of a vehicle under chapter 4 of Title 39 of the Revised Statutes  
39 **[and]** , N.J.S.2C:11-5 , section 1 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill) and all amendments and  
41 supplements thereto.  
42 (cf: P.L.2011, c.13, s.7)

43  
44 17. Section 2 of P.L.2003, c.23 (C.39:5-54) is amended to read  
45 as follows:

46 2. Whenever a person with diplomatic immunity is stopped by  
47 a State, county or municipal law enforcement officer who has  
48 probable cause to believe that the person has violated N.J.S.2C:11-

1 5, section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
 2 Legislature as this bill), subsection c. of N.J.S.2C:12-1, R.S.39:4-  
 3 50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or section 2 of  
 4 P.L.1972, c.197 (C.39:6B-2), or has committed a motor vehicle  
 5 moving violation, the law enforcement officer shall:

6 a. As soon as practicable, contact the United States Department  
 7 of State office to verify the driver's status and immunity;

8 b. Record all relevant information from the person's driver's  
 9 license or identification card, including a driver's license or  
 10 identification card issued by the United States Department of State;

11 c. Within five working days after the date of the stop, forward  
 12 to the Division of Motor Vehicles the following information:

13 (1) A vehicle accident report if the person was involved in an  
 14 accident;

15 (2) A copy of any citation or other charging document that was  
 16 issued, if any; and

17 (3) A written report describing the incident if no citation or  
 18 charging document was issued.  
 19 (cf: P.L.2003, c.23, s.2)

20

21 18. This bill shall take effect immediately.

22

23

24

## 25 STATEMENT

26

26 This bill establishes the crime of strict liability vehicular homicide.  
 27 Under the bill, a person is guilty of strict liability vehicular homicide, a  
 28 crime of the third degree, if he or she causes a homicide by driving a  
 29 vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of  
 30 P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel  
 31 while intoxicated or under the influence of drugs). The presumption of  
 32 nonimprisonment that generally applies to first offenders convicted of  
 33 a crime of the third degree would not be applicable to persons  
 34 convicted of this new crime.

35 In addition to establishing the new crime of strict liability vehicular  
 36 homicide, the bill adds language to N.J.S.2C:11-5 to change the term  
 37 “*vehicular homicide*” in current law to “*reckless vehicular homicide*.”  
 38 The intent of this new language is to clarify that, with the addition of  
 39 the new crime created by the bill, a driver who causes a homicide  
 40 could be charged with either “strict liability vehicular homicide” or  
 41 “reckless vehicular homicide,” depending on the circumstances.

42 The bill does not change the elements of the offense under  
 43 N.J.S.2C:11-5.

44 Under N.J.S.2C:11-5, a person is guilty of death by auto or vessel  
 45 if he causes a homicide by driving a vehicle or vessel *recklessly*. The  
 46 statute provides that proof that the defendant was driving while  
 47 intoxicated or operating a vessel under the influence of alcohol or  
 48 drugs *shall give rise to an inference* that the defendant was driving

1 recklessly. In addition, the statute provides that proof of driving while  
2 fatigued or driving while operating a cellphone may give rise to an  
3 inference that the defendant was driving recklessly. Death by auto or  
4 vessel under N.J.S.2C:11-5 is generally a crime of the second degree.  
5 However, if the person was operating the auto or vessel while  
6 intoxicated or under the influence of drugs *while on school property or*  
7 *driving through a school crossing*, death by auto or vessel is a crime of  
8 the first degree. A crime of the first degree is generally punishable by  
9 a term of imprisonment of ten to 20 years or a fine of up to \$200,000,  
10 or both; a crime of the second degree, by a term of five to ten years or  
11 a fine up to \$150,000, or both; and a crime of the third degree, by a  
12 term of three to five years or a fine up to \$15,000, or both.

13 By contrast, the new third degree crime of strict liability vehicular  
14 homicide establishes strict liability for a person driving or operating a  
15 vehicle or vessel while intoxicated or under the influence of drugs.

16 The bill clarifies certain language concerning the underlying  
17 offense of driving while intoxicated.

18 The bill also clarifies the strict liability provisions of the new crime.  
19 The bill provides that the provisions of N.J.S.2C:2-3 governing the  
20 causal relationship between conduct and result would not apply in a  
21 prosecution for strict liability vehicular homicide. For purposes of this  
22 offense, the defendant's act of operating a motor vehicle while  
23 intoxicated or operating a vessel under the influence of alcohol or  
24 drugs is the cause of death when: (1) the operation of the motor  
25 vehicle or vessel is an antecedent but for which the death would not  
26 have occurred; and (2) the death was not too remote in its occurrence  
27 as to have a just bearing on the defendant's liability; or too dependent  
28 upon the conduct of another person which was unrelated to the  
29 defendant's operation of a motor vehicle or vessel as to have a just  
30 bearing on the defendant's liability. It would not be a defense to a  
31 prosecution under the new crime that the decedent contributed to his  
32 own death by reckless or negligent conduct or operation of a motor  
33 vehicle or vessel. An indictment or conviction under this new crime  
34 would not preclude, if the evidence so warrants, an indictment and  
35 conviction for any other offense.

36 The bill also updates other sections of the law to account for  
37 statutory cross-references to the current death by auto or vessel statute.  
38 These sections of law are contained in Title 2B, Title 2C, and Title 39.

39 This bill is designated as "Ralph and David's Law" in honor of  
40 Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover  
41 business owner and community activist, was killed in 2012 by a drunk  
42 driver who swerved out of her lane and hit him as he stood by his  
43 parked pickup truck. The driver was charged with aggravated  
44 manslaughter and vehicular homicide but in March 2016 was found  
45 not guilty. In 2004, David Heim, age 13, was run over and killed by a  
46 drunk driver in Sussex County as he was crossing the street with his  
47 mother and siblings. The driver was convicted only of drunk driving  
48 and sentenced to 30 days in jail.

# SENATE LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### SENATE, No. 2423

# STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 2016

The Senate Law and Public Safety Committee reports without recommendation Senate Bill No. 2423.

As reported by the committee, this bill establishes the crime of strict liability vehicular homicide. Under the bill, a person is guilty of strict liability vehicular homicide, a crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of nonimprisonment that generally applies to first offenders convicted of a crime of the third degree would not be applicable to persons convicted of this new crime.

In addition to establishing the new crime of strict liability vehicular homicide, the bill adds language to N.J.S.2C:11-5 to change the phrase “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The intent of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances. The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of vehicular homicide if he or she causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Vehicular homicide under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, vehicular homicide is a crime of the first degree. A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vehicle or vessel while intoxicated or under the influence of drugs.

The bill clarifies certain language concerning the underlying offense of driving while intoxicated.

The bill also clarifies the strict liability provisions of the new crime. The bill provides that the provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result would not apply in a prosecution for strict liability vehicular homicide. For purposes of this offense, the defendant's act of operating a motor vehicle while intoxicated or operating a vessel under the influence of alcohol or drugs is the cause of death when: (1) the operation of the motor vehicle or vessel is an antecedent but for which the death would not have occurred; and (2) the death was not too remote in its occurrence as to have a just bearing on the defendant's liability; or too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle or vessel as to have a just bearing on the defendant's liability. It would not be a defense to a prosecution under the new crime that the decedent contributed to his own death by reckless or negligent conduct or operation of a motor vehicle or vessel. An indictment or conviction under this new crime would not preclude, if the evidence so warrants, an indictment and conviction for any other offense.

The bill also updates other sections of the law to account for statutory cross-references to the current vehicular homicide statute. These sections of law are contained in Title 2B, Title 2C, and Title 39.

This bill is designated as "Ralph and David's Law" in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover business owner and community activist, was killed in 2012 by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The driver was charged with aggravated manslaughter and vehicular homicide, but in March 2016 was found not guilty. In 2004, David Heim, age 13, was run over and killed by a drunk driver in Sussex County as he was crossing the street with his mother and siblings. The driver was convicted only of drunk driving and sentenced to 30 days in jail.

As reported by the committee, this bill is identical to Assembly Bill No. 3686 (1R), also reported by the committee on this same date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2423

# STATE OF NEW JERSEY

DATED: JUNE 15, 2017

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2423.

This bill establishes the crime of strict liability vehicular homicide. Under the bill, a person is guilty of strict liability vehicular homicide, a crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel in violation of R.S.39:4-50 or section 3 of P.L.1952, c.157 (C.12:7-46) (driving a vehicle or operating a vessel while intoxicated or under the influence of drugs). The presumption of nonimprisonment that generally applies to first offenders convicted of a crime of the third degree does not apply to persons convicted of this new crime.

In addition, the bill adds language to N.J.S.2C:11-5 to change the phrase “*vehicular homicide*” in current law to “*reckless vehicular homicide*.” The purpose of this new language is to clarify that, with the addition of the new crime created by the bill, a driver who causes a homicide could be charged with either “strict liability vehicular homicide” or “reckless vehicular homicide,” depending on the circumstances. The bill does not change the elements of the offense under N.J.S.2C:11-5.

Under N.J.S.2C:11-5, a person is guilty of vehicular homicide if he or she causes a homicide by driving a vehicle or vessel *recklessly*. The statute provides that proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs *shall give rise to an inference* that the defendant was driving recklessly. In addition, the statute provides that proof of driving while fatigued or driving while operating a cellphone may give rise to an inference that the defendant was driving recklessly. Vehicular homicide under N.J.S.2C:11-5 is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs *while on school property or driving through a school crossing*, vehicular homicide is a crime of the first degree. A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine up to \$15,000, or both.

By contrast, the new third degree crime of strict liability vehicular homicide establishes strict liability for a person driving or operating a vehicle or vessel while intoxicated or under the influence of drugs.

The bill clarifies certain language concerning the underlying offense of driving while intoxicated.

The bill also clarifies the strict liability provisions of the new crime. The bill provides that the provisions of N.J.S.2C:2-3 governing the causal relationship between conduct and result do not apply in a prosecution for strict liability vehicular homicide. For purposes of this offense, the defendant's act of operating a motor vehicle while intoxicated or operating a vessel under the influence of alcohol or drugs is the cause of death when: (1) the operation of the motor vehicle or vessel is an antecedent but for which the death would not have occurred; and (2) the death was not too remote in its occurrence as to have a just bearing on the defendant's liability; or too dependent upon the conduct of another person which was unrelated to the defendant's operation of a motor vehicle or vessel as to have a just bearing on the defendant's liability. It is not a defense to a prosecution under the new crime that the decedent contributed to his own death by reckless or negligent conduct or operation of a motor vehicle or vessel. An indictment or conviction under this new crime does not preclude, if the evidence so warrants, an indictment and conviction for any other offense.

The bill updates other sections of law to account for statutory cross-references to the current vehicular homicide statute. These sections of law are contained in Title 2B, Title 2C, and Title 39.

This bill is designated as Ralph and David's Law in honor of Ralph Politi, Jr. and David Heim. Mr. Politi, an East Hanover business owner and community activist, was killed in 2012 by a drunk driver who swerved out of her lane and hit him as he stood by his parked pickup truck. The driver was charged with aggravated manslaughter and vehicular homicide, but in March 2016 was found not guilty. In 2004, David Heim, age 13, was run over and killed by a drunk driver in Sussex County as he was crossing the street with his mother and siblings. The driver was convicted only of drunk driving and sentenced to 30 days in jail.

As reported, this bill is identical to Assembly Bill No. 3686 (1R), as also reported by the committee.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) states that since strict liability vehicular homicide is a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.

However, the OLS expects that the bill will increase the annual workload and operating expenditures of the Department of Law and

Public Safety, the Judiciary, the Office of the Public Defender, the Department of Corrections, and the State Parole Board.

In addition, the OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree does not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections is expected to incur an indeterminate annual cost increase to house offenders convicted under this bill.

The OLS also notes that the State may receive indeterminate additional annual revenue from fines and penalties imposed on individuals convicted of the new crime.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2423**  
**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

DATED: JUNE 16, 2017

**SUMMARY**

- Synopsis:** Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law.
- Type of Impact:** Annual expenditure and revenue increases to State General Fund.
- Agencies Affected:** Department of Law and Public Safety; Judiciary; Office of the Public Defender; Department of Corrections; State Parole Board.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>Annual State Expenditure Increase</b>	Indeterminate – See Comments Below.		
<b>Annual State Revenue Increase</b>	Indeterminate – See Comments Below.		

- The Office of Legislative Services (OLS) states that since strict liability vehicular homicide would be a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.
- The OLS estimates that the bill would increase the annual workload and operating expenditures of the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, the Department of Corrections, and the State Parole Board.
- The OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree would not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections would incur an indeterminate annual cost increase to house offenders convicted under this bill. Data obtained from the department indicate that the average annual per capita cost to house an inmate in a State prison facility in FY 2016 totaled \$41,964. However, this cost would not be incurred unless the prison population increases by a number large enough for the department to increase bed space capacity, raising fixed costs. Additional costs to be incurred in housing a small number of additional inmates without increasing bed spaces would total \$8.45 per day, totaling \$3,084 annually per inmate in marginal costs for food, wage and clothing.

- The State may also receive indeterminate additional annual revenue from fines and penalties imposed on individuals convicted of the new crime.

## **BILL DESCRIPTION**

Senate Bill No. 2423 of 2016 establishes the crime of “strict liability vehicular homicide.” A person is guilty of the new crime of the third degree, if he or she causes a homicide by driving a vehicle or operating a vessel while intoxicated or under the influence of drugs. The presumption of non-imprisonment that generally applies to first-time offenders of a crime of the third degree would not be applicable to persons convicted of the new crime.

The bill also renames the existing crime of “vehicular homicide” to “reckless vehicular homicide.” A driver who causes a homicide could therefore be charged with either “strict liability vehicular homicide” or the higher grade “reckless vehicular homicide,” depending on the circumstances.

Under current law, a person is guilty of “vehicular homicide” if he or she causes a homicide by driving a vehicle or vessel recklessly. Proof that the defendant was driving while intoxicated or operating a vessel under the influence of alcohol or drugs gives rise to an inference that the defendant was driving recklessly but the prosecution must still prove a causal relationship between cause and effect to secure a conviction. “Vehicular homicide” is generally a crime of the second degree. However, if the person was operating the auto or vessel while intoxicated or under the influence of drugs while on school property or driving through a school crossing, “vehicular homicide” is a crime of the first degree.

A crime of the first degree generally is punishable by a term of imprisonment of ten to 20 years, a fine of up to \$200,000, or both; a crime of the second degree, by a term of five to 10 years, a fine of up to \$150,000, or both; and a crime of the third degree, by a term of three to five years, a fine of up to \$15,000, or both.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS states that since strict liability vehicular homicide would be a new criminal offense, there are no data available with which to determine the number of offenders who would be affected by this bill. As a result, the OLS is unable to determine the annual State cost and revenue increases attributable to the bill.

The bill establishes the new third degree crime of strict liability vehicular homicide of which defendants would be convicted whenever the prosecution would be able to prove that defendants drove while intoxicated when they caused the death of another person. Any conviction would be in addition to convictions under the State’s existing driving under the influence law. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. Although a presumption of non-imprisonment generally applies to first-time

offenders of a crime of the third degree, the bill would require a prison sentence for persons convicted of the crime of strict liability vehicular homicide.

Under current law, a higher standard of proof must be met for convictions of the second degree crime of vehicular homicide. As a result, depending on the circumstances, drivers who while driving under the influence cause the death of another person may not receive a criminal penalty and may only be sentenced under the State's driving under the influence law under which the maximum prison term for the first offense is 30 days and 180 days for certain subsequent offenses.

Accordingly, the OLS expects that the bill would not change the number of convictions of the second degree crime of vehicular homicide, renamed reckless vehicular homicide, as convictions thereof under current law would remain convictions under the bill, carrying the same penalties. In addition, the OLS anticipates no change in the number of convictions under the driving under the influence law, as convictions of the new crime of strict liability vehicular homicide would be in addition to the convictions and penalties under the driving under the influence law.

Any change would be attributable to an unknown number of cases becoming alleged crimes of the third degree that currently result only in convictions and penalties under the State's driving under the influence law.

The OLS notes that the added crime would not shift cases from municipal courts, which generally adjudicate driving under the influence cases, to State courts, given that P.L.2006, c.28 already requires that driving under the influence cases must be transferred to the Superior Court when death or serious bodily injury occurs.

However, the annual workload and operating expenditures of prosecutors, courts, and, if applicable, the Office of the Public Defender may increase to the extent that cases involving crimes of the third degree are more labor-intensive than driving under the influence cases.

In addition, the OLS notes that the standard presumption of non-incarceration for first-time offenders of a crime of the third degree would not apply to convictions of the crime of strict liability vehicular homicide. As a result, the Department of Corrections would incur an indeterminate annual cost increase to house offenders convicted under this bill. Data obtained from the department indicate that the average annual per capita cost to house an inmate in a State prison facility in FY 2016 totaled \$41,964. However, this cost would not be incurred unless the prison population increases by a number large enough for the department to increase bed space capacity, raising fixed costs. Additional costs to be incurred in housing a small number of additional inmates without increasing bed spaces would total \$8.45 per day, totaling \$3,084 annually per inmate in marginal costs for food, wage and clothing. In addition, the State Parole Board would have to supervise the return to society of additional convicts.

Any additional State cost from establishing the new crime may be offset, in part, by fines and penalties imposed by the courts on defendants convicted of having committed the new crime; however, the State's ability to collect criminal fines and penalties has historically been limited.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

## Governor Christie Takes Action on Pending Legislation

Friday, July 21, 2017

Tags: [Bill Action](#)



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Trenton, NJ – Governor Chris Christie today took action on dozens of bills, including S-359/A-2320 (Codey, Vitale/Vainieri Huttle, Conaway, Jimenez, Lampitt, Jasey, Sumter), which raises the minimum age from 19 to 21 of a person to whom a vendor may sell, offer for sale, distribute, give or furnish tobacco products in New Jersey. This new law also amends various related statues concerning penalties, fines, signage requirements, non-face-to-face transactions, and enforcement provisions to reflect the increased minimum age.

“By raising the minimum age to purchase tobacco products to 21, we are giving young people more time to develop a maturity and better understanding of how dangerous smoking can be and that it is better to not start smoking in the first place,” Governor Christie said. “My mother died from the effects of smoking, and no one should lose their life due to any addictive substance. Additionally, the less people who develop costly tobacco habits that can cause health problems, such as lung cancer, heart disease and developmental issues, the less strain there will be on our healthcare system.”

Governor Christie also took action on pending legislation related to:

### Further Addressing the Opioid Epidemic

Governor Christie signed four bills that continue New Jersey's leadership role in fighting the national opioid epidemic. The legislation that requires the Department of Human Services develop, maintain, and post on their website daily information about the number of open beds available in facilities in the state for people in need of mental health or substance use disorder treatment; help inform parents of student athletes and cheerleaders about the use and misuse of prescription opioids; allows hospice programs to accept the unused prescription medicines of their hospice patients for safe disposal and implements the use of current-day, sensitive terminology when referring to persons with substance use disorders or certain disabilities.

- **A-1662/S-2466 (Schaer, Vainieri Huttle, Coughlin, McKnight, Mukherji/Vitale, Allen)** - Requires development and maintenance of data dashboard report to advise of open bed availability in residential facilities providing behavioral health services
- **A-3944/S-2402 (Mazzeo, Lagana, Vainieri Huttle, Benson, Caride, Wimberly/Diegnan, Vitale)** - Requires DOE to develop educational fact sheet for distribution to parents of student-athletes and cheerleaders concerning use and misuse of prescription opioids
- **S-2970/A-4522 (Vitale, Diegnan/Lampitt, Vainieri Huttle, Jimenez)** - Allows hospice care programs to accept unused prescription medications for disposal under certain circumstances
- **S-2721/ACS for A-926 (Vitale, Whelan/Vainieri Huttle, Benson, Tucker, Eustace, McKnight, Mosquera)** - Implements person-first language and changes pejorative terminology referring to persons with certain disabilities or substance use disorders

### Protecting and Preserving the Environment

The Governor also signed several bills to protect people and improve the quality of life by strengthening New Jersey's environment.

“These new laws will create more open space preservation opportunities, green energy solutions and safeguards to ensure quality drinking water for all New Jerseyans,” Governor Christie said. “They provide greater flexibility for counties and municipalities to use the roughly \$270 million open space tax dollars they collect each year for the intended mission of protecting New Jersey's environment, improving communities with more recreation and

conservation, and preventing overcrowding of our towns and schools. They also ensure reliable, sustainable and safe environmental infrastructure across the state, by investing nearly \$100 million in critical projects this year."

- **A-1645/S-195 (Schaer, Webber, Dancer, Pintor Marin/Kyrillos, Smith)** - Expands definition of "acquisition," for purposes of county and municipal open space trust funds, to include demolition, removal of debris, and restoration of lands being acquired
- **S-3352/A-5045 (Ruiz, Bateman/Oliver, Chaparro, Singleton, Lagana, Bramnick, Vainieri Huttie, Zwicker)** - Appropriates \$71,700,224 from constitutionally dedicated CBT revenues and various Green Acres funds to DEP for local government open space acquisition and park development projects
- **S-3353/A-5046 (Greenstein, Thompson/Eustace, Land, Mukherji, Schaer, Bramnick, Vainieri Huttie, Wimberly)** - Appropriates \$12.3 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects
- **S-3354/A-5044 (Gordon, Allen/McKeon, Mazzeo, Muoio, Moriarty, Bramnick, Zwicker, Vainieri Huttie)** - Appropriates \$8,992,898 to DEP from constitutionally dedicated CBT revenues and various Green Acres funds for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes
- **S-3240/A-4996 (Greenstein, Codey/Mukherji, Mazzeo, Schaer, Holley, Land)** - Authorizes NJ Environmental Infrastructure Trust to expend certain sums to make loans for environmental infrastructure projects for FY2018
- **CC for S-3241/A-4998 (Smith, Codey/Eustace, Muoio, Moriarty, Conaway, Andrzejczak)** - Appropriates funds to DEP for environmental infrastructure projects for FY2018
- **S-3242/A-4997 (Gordon, Oroho/McKeon, Prieto)** - Clarifies procedures for approval of environmental and transportation infrastructure projects
- **S-3181/A-4756 (Smith, Diegnan/DeAngelo, Eustace, Gusciora)** - Permits solar electric power generation facility projects not having commenced commercial operation to retain designation through May 31, 2018 as connected to distribution system
- **S-2834/A-4569 (Sweeney, Greenstein, Bateman/Eustace, Karabinchak, McKeon, Vainieri Huttie, Benson, Muoio)** - The "Water Quality Accountability Act"; imposes certain testing, reporting, management, and infrastructure investment requirements on water purveyors

Governor Christie also took action on the following bills:

#### BILL SIGNINGS:

**S-5/A-4925 (Vitale, Sweeney/Conaway, O'Scanlon, Houghtaling, Quijano, Giblin, DeAngelo, Munoz, Mukherji, A.M. Bucco)** - Establishes data reporting requirements for emergency medical services providers and dispatch centers

**SS SCS SCS for S-291, 652, 1954/ACS for A-1464 (Vitale, Whelan, Allen, Turner/Lampitt, Coughlin, Conaway, Vainieri Huttie, Lagana, Mukherji, Moriarty)** - Authorizes health care providers to engage in telemedicine and telehealth

**S-742/A-1205 (Beach/Mosquera, Holley, Wimberly, Jones)** - Requires board of education to enter into agreement with law enforcement authorities regarding access to live video streams of public school buildings

**S-1295/A-3701 (Vitale/Eustace, Munoz)** - Amends and repeals sections of "Respiratory Care Practitioner Licensing Act"

**S-1315/A-1839 (Vitale/Giblin, Wimberly, McKeon, Mukherji, Sumter)** - Revises statutes regarding practice of physical therapy

**S-1840/A-2085 (Ruiz, Gill/Mukherji, Oliver, McKnight)** - Prohibits charging fee to stop publishing personal identifying information obtained through the criminal justice system

**S-1913/A-2794 (Addiego, Greenstein/Lagana, Moriarty, Mukherji, Downey)** - "Personal Information and Privacy Protection Act"; restricts collection and use of personal information by retail establishments for certain purposes

**S-2058/A-671 (T. Kean, Pou/Munoz, Giblin, Mukherji, Moriarty)** - Adds two nurse educators to the New Jersey Board of Nursing

**S-2331/A-3962 (Codey, Vitale/Jasey, McKeon, Vainieri Huttie, Munoz, Mukherji, Mosquera, Lampitt)** - Establishes tuition reimbursement program for certain psychiatrists who work in underserved areas or psychiatric hospitals in New Jersey

**CC S-2403/A-3717 (Rice, Turner/Sumter, Vainieri Huttie, Lampitt, Downey)** - Establishes Women's Vocational Training Pilot Program to promote economic self-sufficiency of low-income women through increased participation in high-wage, high-demand occupations; authorizes allocation of certain funds therefor

**S-2452/A-4007 (Diegnan, Stack/Houghtaling, Downey, Mosquera, Mazzeo)** - Requires Director of Division of Taxation to promulgate Property Taxpayer Bill of Rights

**S-2577/A-4238 (Cunningham, Ruiz, Gordon/Sumter, Jasey, Muoio, Lagana, Downey, Benson)** - Requires Higher Education Student Assistance Authority to provide annual New Jersey College Loans to Assist State Students Loan Program report to Governor and Legislature and develop student loan comparison information document to increase program transparency

**S-2618/A-4691 (Cunningham, Pou/Caride, McKeon, Jasey, Giblin)** - Requires institutions of higher education to enter into collective Statewide reverse transfer agreement

**S-2819/A-4363 (Sweeney, Ruiz, Lesniak/Taliaferro, Andrzejczak, Lampitt, Mosquera, Holley, Quijano)** - Creates "Nourishing Young Minds Initiative Fund" in Dept. of Agriculture to help pay for child food and nutrition programs

**S-3027/A-4631 (Smith, Greenstein/Lampitt, Quijano, Eustace, Kennedy, Benson, Muoio, Zwicker, Mukherji)** - Establishes State food waste reduction goal of 50 percent by 2030

**S-3067/A-4652 (Ruiz, Vitale/Vainieri Huttie, Caride, Eustace, Jasey, Wimberly, Gusciora)** - Requires Commissioner of Education to develop guidelines for school districts regarding transgender students

**S-3176/A-4898 (Madden/Mukherji, Singleton)** - Changes year used to calculate TDI and FLI employee taxes from most recent calendar year to most recent fiscal year

**S-3191/A-3370 (Sweeney, Bateman/Burzichelli, Jones)** - Extends voting rights of representatives of sending districts on receiving district board of education

**S-3219/A-4859 (Sweeney, T. Kean, Greenstein, Holzapfel/Vainieri Huttie, Prieto, Downey)** - Establishes additional penalties related to child pornography and expands crime to include portrayal of child in sexual manner; establishes crime of leader of child pornography network

**S-3331/A-5039 (Cruz-Perez/Jones)** - Authorizes State Treasurer to sell surplus real property in City of Camden, County of Camden to Camden County Improvement Authority

**SJR-105/AJR-157 (Diegnan, Cruz-Perez, Sweeney/Pinkin, Karabinchak, Coughlin)** - Designates August 29, 2017 as Governor James Florio Day in New Jersey

**SJR-113/AJR-165 (Gordon/Vainieri Huttie, Chiaravalloti)** - Clarifies intent of law subjecting PANYNJ to open public records and freedom of information laws in New Jersey and New York

**A-222/S-2171 (DeAngelo, Giblin, Singleton, Holley, Benson/Bateman, Greenstein, Stack)** - "New Jersey Library Construction Bond Act"; authorizes issuance of \$125,000,000 in general obligation bonds to finance capital projects at public libraries; appropriates \$5,000

**A-373/S-607 (Auth, Vainieri Huttie, McGuckin, Schepisi, Peterson, Jimenez/Addiego, A.R. Bucco)** - Requires life imprisonment without parole for persons convicted of the murder of a minor under the age of 18 in the course of the commission of a sex crime

**A-555/S-1847 (Pinkin, Eustace/Diegnan)** - Revises statutes concerning incorporation and governance of the Protestant Episcopal Church to remove gender-specific references

**A-621/S-2328 (Lagana, Greenwald, Moriarty, Mosquera, Mukherji/Cruz-Perez, Turner)** - Permits bowling alleys, including alleys licensed to sell alcoholic beverages, to conduct amusement games

**A-1458/S-2449 (Lampitt, Mosquera, Downey, Singleton, Vainieri Huttie/Vitale, Ruiz)** - Requires health care professionals engaged in prenatal care to provide parents of newborns with information on health insurance coverage for newborn children

**A-1761/S-332 (Eustace, Mukherji, Gusciora/Scutari, Bateman)** - Creates fencing crime involving stolen domestic companion animals

**A-2060/S-2333 (Gusciora, Sumter, Oliver, Jasey, McKnight/Cruz-Perez, Turner)** - Establishes process for consideration of offers from short sale buyers during residential mortgage foreclosures

**A-2221/S-2453 (Benson, Russo, DeAngelo, A.M. Bucco/Diegnan, Greenstein)** - Allows gross income taxpayers to use returns to make voluntary contributions to the Boy Scouts of America Councils in New Jersey

**A-2441/S-2910 (Eustace, Gusciora, Kennedy, Mazzeo, Mukherji/Gordon, Turner)** - Authorizes the Unclaimed Property Administrator to verify certain governmental debts before delivering abandoned property

**A-2926/S-3197 (Greenwald, Vainieri Huttie, Schaer, Mukherji, Holley, Mosquera, Muoio, Sumter, Mazzeo/Cruz-Perez, Cunningham)** - Repeals law suspending certain licenses, registrations and certifications for failure to repay student loans

**A-2993/S-1305 (Conaway, Pinkin, Sumter, Wimberly, McKnight, Mukherji/Vitale, Madden)** - Requires Medicaid coverage for diabetes self-management education, training, services, and equipment for patients diagnosed with diabetes, gestational diabetes, and pre-diabetes

**A-3347/S-2242 (Wolfe, Holley, Jasey, McKnight, Wimberly/Diegnan)** - Establishes New Jersey School Safety Specialist Academy in Department of Education and requires school districts to designate school safety specialist

**A-3438/S-1564 (DeAngelo, Danielsens, Holley, Houghtaling, Downey, Wimberly, Quijano/Turner, Beach)** - Requires initial determination of unemployment benefits to be made within three weeks of filing of claim

**A-3463/S-2038 (Coughlin/Vitale, Codey)** - Updates references to DOC and DHS and refers to persons receiving services from DHS

**A-3686/S-2423 (McKeon, Jasey, Munoz, Vainieri Huttie, A.M. Bucco/Codey, Oroho)** - Establishes new crime of strict liability vehicular homicide; renames existing vehicular homicide as reckless vehicular homicide; designated as Ralph and David's Law

**A-4011/S-2887 (Jones, Barclay, Moriarty, Mosquera, Greenwald, Lampitt, Mazzeo, Chiaravalloti/Cruz-Perez, Beach)** - Designates USS New Jersey as New Jersey State Ship

**A-4081/S-2662 (Lampitt, Vainieri Huttle, Benson, Wimberly, Greenwald/Allen, Sweeney)** - "Charlie's Law"; Establishes civil penalties for persons who interfere with or deny persons with disabilities accompanied by service or guide dogs access to places of public accommodation

**A-4088/S-2567 (Schaer, Jasey, Benson, Wimberly/Cruz-Perez, Singer)** - Establishes "High School to College Readiness Commission" to examine issues and develop recommendations to enhance student preparation for postsecondary education

**A-4175/S-2808 (Caride, McKnight, Holley, Pintor Marin, Wimberly/Ruiz, Turner)** -Requires Commissioner of Education to develop guidance on identifying English language learners for gifted and talented programs

**A-4246/S-3194 (Dancer/Lesniak, Beck)** - Decreases annual thoroughbred race dates to 50 minimum upon written consent from New Jersey Thoroughbred Horsemen's Association

**A-4317/S-3206 (Prieto, Giblin/Diegnan)** - Concerns violations of certain occupational licensing laws

**A-4568/S-3017 (Vainieri Huttle, Eustace, Pinkin, Jasey, Johnson/Vitale, Ruiz)** - Prohibits health insurers, SHBP, SEHBP, certain health care providers, and Medicaid from discriminating in providing coverage and services based on gender identity

**A-4875/S-1996 (Muoio, Gusciora/Beach, Van Drew)** - Requires gubernatorial candidates' statements be posted online

**A-4969/S-3281 (Oliver, Giblin, Jasey, McKnight, Schaer, Wimberly/Gill, Cunningham)** - Establishes Montclair State University as public research university

**ACS for A-4994/S-3314 (McKeon, Burzichelli, Singleton, Caride/Sarlo, Oroho)** - Requires certain State and local government agency employees with access to federal tax information to undergo criminal history background checks

**AJR-37/SJR-67 (Mosquera, Chaparro/Weinberg)** - Designates June 21 of each year as "ASK Day" to promote children's health and gun safety

**ACS for AJR-54/SJR-104 (Benson, Mosquera, Chiaravalloti, Holley, McKnight, Wimberly/Sweeney, Beach)** - Designates April 2nd of each year as "World Autism Awareness Day"

**AJR-72/SJR-31 (Gove, Rumpf, A.M. Bucco, Holley/A.R. Bucco)** - Designates September 17 through September 23 of each year as "Constitution Week"

**AJR-115/SJR-81 (Vainieri Huttle, Lampitt, Giblin, Benson/Diegnan, A.R. Bucco)** - Designates third Friday in September of every year as Concussion Awareness Day

**AJR-126/SJR-85 (Dancer, DeAngelo, Munoz, A.M. Bucco, Mukherji, Houghtaling, Downey/Allen, Madden)** - Commemorates establishment and service of the New Jersey State Police and celebrates 95th anniversary of first graduating class

**AJR-137/SJR-102 (Mazzeo/Whelan)** - Urges United States President Trump, members of his administration, and Congress to oppose measures and actions to prohibit states from authorizing and conducting Internet gaming

#### **BILLS VETOED:**

**SCS for S-1297, 1990/A-3751 (Vitale, Sweeney/Jasey, Coughlin)** - **CONDITIONAL** - Permits candidates for school board to circulate petitions jointly and be bracketed together on ballot; permits short nonpolitical designation of principles on petitions and ballots

**A-31/S-3315 (Prieto, Muoio, Oliver, Schaer, Holley, Mukherji, Quijano, Wimberly, Pintor Marin/Vitale, Cruz-Perez)** - **ABSOLUTE** - Increases amount of benefits under Work First New Jersey program by 30 percent over three years and according to Social Security cost of living increases thereafter

**A-33/S-3316 (Muoio, Vainieri Huttle, Mukherji, Oliver, Gusciora, Pintor Marin/Vitale, Cruz-Perez)** - **ABSOLUTE** - Repeals family cap in Work First New Jersey program

**A-320/S-1018 (Singleton, Vainieri Huttle, Munoz, Moriarty, Lampitt, Sumter, Mukherji/Weinberg, Cruz-Perez)** - **CONDITIONAL** - Establishes minimum Medicaid reimbursement rate for personal care services

**A-1139/S-2616 (Holley, McKnight, Munoz, Kennedy, Mukherji, Pintor Marin, Wimberly/Ruiz, Vitale)** - **CONDITIONAL** - Prohibits sale of unsafe supplemental mattresses designed for children's products

**A-2297/S-659 (Vainieri Huttle, Sumter, Mukherji, Caride, Downey, Zwicker, Wimberly/Turner, Allen)** - **CONDITIONAL** - Requires health insurance coverage for contraceptives to include prescriptions for 12 months

**A-3338/S-862 (Eustace, Lagana, Vainieri Huttle, Muoio, Mukherji, Benson, Jimenez, Giblin, Moriarty, Lampitt/Stack, Weinberg)** - **CONDITIONAL** - Dedicates one percent of cigarette and other tobacco products tax revenues to anti-smoking initiatives

**ACS for A-3480, 4119/S-2536 (Downey, Lampitt, Schaer, Houghtaling, Benson, Singleton, Muoio, DeAngelo/Gill, Weinberg)** - **ABSOLUTE** - Concerns employer inquiries about worker's wage and salary experience

**A-4253/S-2634 (Quijano, Mukherji, Vainieri Huttle, Eustace, Jones, McKeon/Weinberg, Diegnan) - CONDITIONAL** - Establishes "New Jersey Nonprofit Security Grant Pilot Program"; appropriates \$3,000,000 over next three fiscal years

**A-4453/S-2881 (Downey, Houghtaling/Ruiz) – CONDITIONAL** - Requires pupils who reside on certain federal property to enroll in resident school district in accordance with schedule determined by executive county superintendent of schools

**A-4496/S-2977 (Wimberly, Sumter, Lampitt/Lesniak) – CONDITIONAL** - "Healthy Small Food Retailer Act"; provides funding to small food retailers to sell fresh and nutritious food; appropriates \$1 million

**A-4587/SCS for S-2574 (Quijano, Vainieri Huttle, Mukherji, Giblin/Diegnan, Sarlo) – ABSOLUTE** - Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations

**A-4870/S-3226 (Prieto, Oliver, Quijano, Pintor Marin, Schaer, Vainieri Huttle, Eustace/Ruiz, Sweeney, Greenstein) – ABSOLUTE** - "Safe Transportation Jobs and Fair Employment Rules Act"

**ACS for A-4927/SCS for S-3085 (Prieto, Oliver, Gusciora, Jasey/Sweeney, Diegnan, Ruiz) – CONDITIONAL** - Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave

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