

2C:29-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:29-2 (Drivers license-- suspend-- person using motor vehicle to elude)

LAWS OF: 1989 **CHAPTER:** 84

BILL NO: A1825

SPONSOR(S): Franks

Date Introduced: Pre-filed

Committee: **Assembly:** Law, public Safety and Corrections
Senate: Law, Public Safety and Defense

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: **Assembly:** March 14, 1989 Re-enacted 2-23-89
Senate: September 26, 1988 Re-enacted 5-22-89

Date of Approval: May 31, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes
Senate Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping-- attached:

"Governor enacts law . . ." 6-2-89 Star Ledger.

RDV

[THIRD REPRINT]
ASSEMBLY, No. 1825

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblymen FRANKS and SHUSTED

1 AN ACT providing for suspension of the drivers' licenses of
drivers fleeing from law enforcement officers and amending
3 N.J.S.2C:29-2.

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

7 1. N.J.S.2C:29-2 is amended to read as follows:

2C:29-2. Resisting Arrest; Eluding Officer. a. A person is
9 guilty of a disorderly persons offense if he purposely prevents a
law enforcement officer from effecting a lawful arrest, except
11 that he is guilty of a crime of the fourth degree if he:

1. Uses or threatens to use physical force or violence against
13 the law enforcement officer or another; or

2. Uses any other means to create a substantial risk of
15 causing physical injury to the public servant or another.

It is not a defense to a prosecution under this subsection that
17 the law enforcement officer was acting unlawfully in making the
arrest, provided he was acting under color of his official
19 authority and provided the law enforcement officer announces
his intention to arrest prior to the resistance.

21 b. Any person, while operating a motor vehicle on any street
or highway in this State, who knowingly flees or attempts to
23 elude any police or law enforcement officer after having
received any signal from such officer to bring the vehicle to a
25 full stop is a disorderly person. In addition to the penalty
prescribed under this subsection or any other section of law, the
27 court shall order the suspension of that person's driver's license
for a period of not less than six months or more than two years.
29 If that license is suspended at the time such order is issued, the

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:

¹ Assembly ALP committee amendments adopted February 29, 1988.

² Senate SLP committee amendments adopted June 23, 1988.

³ Assembly amendments adopted in accordance with Governor's
recommendations February 6, 1989.

1 suspension so ordered shall ²[take effect] commence² on the
2 date ²[on which the pre-existing] of the termination of the
3 existing² suspension ²[would otherwise terminate].

4 The court shall collect the license which is being suspended
5 and forward it to the Division of Motor Vehicles along with a
6 report of the suspension. If the court is unable to collect the
7 license, the court shall nevertheless forward the report to the
8 division. The report from the court to the division shall include
9 the complete name, address, date of birth, eye color, sex and
10 driver's license number, if known, of the person whose license
11 has been suspended and shall indicate the first and last calendar
12 day of the suspension period ordered by the court under this
13 subsection. If the person is the holder of a license from another
14 jurisdiction, the court shall not collect the license but shall
15 notify the division and the division shall notify the appropriate
16 officials in the licensing state. The court, however, shall in
17 accordance with the provisions of this subsection, suspend the
18 person's non-resident driving privileges².

19 ³[If the operator ²[does not have a license] has never been
20 issued a license or if the operator's license has expired², then in
21 lieu of any suspension of license under this subsection, the
22 operator shall be sentenced to and shall serve a term of
23 imprisonment for ¹[for] ¹90 days for a first offense, six months
24 for a second offense and one year for a third or any subsequent
25 offense hereunder.]³

26 For the purposes of this subsection, it shall be a rebuttable
27 presumption that the ¹[operator] owner¹ of a vehicle ¹[is]
28 was¹ the ¹[owner thereof] operator of the vehicle at the time
29 of the offense¹.

(cf: P.L.1981, c.290, s.28)

30 2. This act shall take effect immediately.

33

CRIMINAL JUSTICE

35

Motor Vehicle Offenses

37 Provides for suspension of driver's license of person using a
motor vehicle to elude police officers.

1 pre-existing suspension would otherwise terminate. If the
 2 operator does not have a license, then in lieu of any suspension
 3 of license under this subsection, the operator shall be sentenced
 4 to and shall serve a term of imprisonment for for 90 days for a
 5 first offense, six months for a second offense and one year for a
 6 third or any subsequent offense hereunder.

7 For the purposes of this subsection, it shall be a rebuttable
 8 presumption that the operator of a vehicle is the owner thereof.

9 2. This act shall take effect immediately.

11

sponsors' STATEMENT

13

14 N.J.S. 2C:29-2 provides that a motorist who knowingly
 15 attempts to elude a police officer after receiving a signal to
 16 stop is guilty of a disorderly persons offense. This bill imposes
 17 an additional penalty by providing for the suspension of that
 18 person's driver's license for a period of not less than six months
 19 and no more than two years; if the person has no driver's
 20 license, he would be subject to mandatory imprisonment for a
 21 term of from 90 days to one year.

22 A motorist fleeing or attempting to elude a police officer may
 23 create a dangerous situation for himself, the police officer and
 24 other drivers in the vicinity. Fatal accidents have been caused
 25 by persons driving a motor vehicle in an attempt to evade police
 26 officers. The purpose of this bill is to discourage persons from
 27 placing themselves and others in danger by using a motor vehicle
 28 to elude police or law enforcement officers.

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CRIMINAL JUSTICE
 Motor Vehicle Offenses

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34 Provides for suspension of driver's license of person using a
 35 motor vehicle to elude police officers.

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1825

with Assembly Committee Amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 29, 1988

The Assembly Law, Public Safety and Corrections Committee reports favorably Assembly Bill 1825 with Committee amendments.

Assembly Bill 1825 amends N.J.S. 2C:29-2 to impose an additional penalty upon motorists found guilty of attempting to elude a police officer after receiving a signal to stop.

Under current law, a motorist who knowingly flees or attempts to elude a police officer after having received a signal from that officer to stop is guilty of a disorderly persons offense. The penalty for a disorderly persons offense is a fine of not more than \$1,000, imprisonment for not more than six months, or both.

Assembly Bill 1825 provides that in addition to those penalties, any motorist found guilty of attempting to flee or elude a police officer shall have his driver's license suspended for a period of not less than six months nor more than two years. If the guilty motorist's license is already suspended at the time of his conviction, the suspension for attempting to flee or elude the police officer shall take effect on the day that the pre-existing suspension terminates. If the guilty motorist is unlicensed, the bill provides that instead of a suspension, the guilty party shall be imprisoned for 90 days for a first offense, six months for a second offense, and one year for any subsequent offense.

The Committee amended the bill to clarify the inclusion of the rebuttable presumption that the owner of a motor vehicle was the operator of that vehicle at the time of the offense.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been preformed.

SENATE LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1825

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 1988

The Senate Law, Public Safety and Defense Committee reports favorably Assembly Bill No. 1825 [1R] with amendments.

As amended, Assembly Bill No. 1825 amends N.J.S. 2C:29-2 to impose an additional penalty upon motorists found guilty of attempting to elude a police officer after receiving a signal to stop.

Under current law, a motorist who knowingly flees or attempts to elude a police officer after having received a signal from that officer to stop is guilty of a disorderly persons offense. The penalty for a disorderly persons offense is a fine of not more than \$1,000, imprisonment for not more than six months, or both.

This bill provides that in addition to those penalties, any motorist found guilty of attempting to flee or elude a police officer will have his driver's license suspended for a period of not less than six months nor more than two years. If the motorist's license is already suspended at the time of his conviction, the suspension for attempting to flee or elude the police officer will take effect on the day that the existence suspension terminates. If the motorist is unlicensed, the bill provides that instead of a suspension, the motorist shall be imprisoned for 90 days for a first offense, six months for a second offense, and one year for any subsequent offense.

There is created a rebuttable presumption that the owner of a motor vehicle was the operator of that vehicle at the time of the offense.

The committee amended the bill in order to specify the procedure through which a court would notify the Division of Motor Vehicles of a license suspension ordered under this bill. This procedure will ensure that the division receives all necessary information concerning the suspension so that it may promptly and accurately enter that suspension into the driving record of the licensee.

As released by this committee, this bill is identical to Senate Bill No. 2375 with Senate committee amendments adopted June 23, 1988.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

February 6, 1989

ASSEMBLY BILL NO. 1825 (Second Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1825 (Second Reprint) with my objections for reconsideration.

This bill mandates the suspension of a motor vehicle operator's license for at least six months but not more than two years if found guilty of the disorderly persons offense of eluding or attempting to elude a police officer by way of motor vehicle. If the operator had an expired license or had never been issued a driver's license, the bill calls for a mandatory term of imprisonment in lieu of license suspension: 90 days for a first offense, six months for a second offense and one year for any subsequent offense. The bill also creates a rebuttable presumption that the owner of the vehicle was the operator at the time of the offense.

There is one aspect of this bill which I find troubling, namely, the section concerning mandatory prison sentences. In essence, this bill would remove the discretion of the trial judge regarding the appropriate sentence to be awarded an individual convicted of this offense. The New Jersey Criminal Code currently permits trial judges to mete out all of the mandated sentence provisions of this bill and more. The court is to consider the severity of the offense, the potential effect of the loss of driving privileges on the person's ability to be rehabilitated and the effect of additional prison terms on the population of county and State jails.

While the deterrent effect sought by the sentencing provisions of this bill is desirable, it may be best achieved by the Judiciary's case-by-case application of the existing general sentencing statutes regarding terms of imprisonment. The effectiveness of our Criminal Code is enhanced by the clarity and general applicability of its provisions such that trial judges have all the necessary tools available to them to tailor appropriate sentences. The Department of Law and Public Safety, Division of Criminal Justice, maintains that, and I agree, mandatory prison sentencing provisions should be reserved only for the more serious crimes and judges should be

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

allowed the discretion to apply an unencumbered Criminal Code for the remainder of crimes and offenses.

Accordingly, I herewith return Assembly Bill No. 1825 (Second Reprint) for reconsideration and recommend that it be amended as follows:

Page 2, Section 1, Lines 18-24: Delete in entirety.

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel