

2C:11-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:11-5 (Death by auto conviction-- also allow indictment & conviction for manslaughter)

LAWS OF: 1988 **CHAPTER:** 75

BILL NO: A1315

SPONSOR(S): Duch and Gill

Date Introduced: Pre-filed

Committee: **Assembly:** Judiciary

Senate: Judiciary

Amended during passage: No

Date of Passage: **Assembly:** February 29, 1988

Senate: June 13, 1988

Date of Approval: August 1, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

State v. Milligan, 202 NJ Super 336 (1985); 104 NJ 67 (1986).

ASSEMBLY, No. 1315

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblymen DUCH and GILL

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

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

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

2C:11-5. Death by auto. a. Criminal homicide constitutes
7 death by auto when it is caused by driving a vehicle recklessly.

b. Death by auto is a crime of the third degree and,
9 notwithstanding the provisions of 2C:43-2, the court may not
suspend the imposition of sentence on any defendant convicted
11 under this section, who was operating the vehicle under the
influence of an intoxicating liquor, narcotic, hallucinogenic or
13 habit-producing drug, and any sentence imposed under this
section shall include either a fixed minimum term of 270 days
15 imprisonment, during which the defendant shall be ineligible for
parole, or a requirement that the defendant perform a
17 community related service for a minimum of 270 days.

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

21 d. Nothing herein shall be deemed to preclude, if the
evidence so warrants, an indictment and conviction for
23 manslaughter under the provisions of N.J.S. 2C:11-4. If an
indictment for manslaughter is brought in a case involving the
25 operation of a motor vehicle, death by auto shall be considered a
lesser-included offense.

27 (cf: P.L. 1985, c. 97, s. 1)

29 2. This act shall take effect immediately.

CRIMINAL JUSTICE

31 Motor Vehicles

33 Provides that the death by auto statute does not preclude
indictment and conviction for manslaughter.

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.

ASSEMBLY, No. 1315
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblymen DUCH and GILL

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

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

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

6 2C:11-5. Death by auto. a. Criminal homicide constitutes
7 death by auto when it is caused by driving a vehicle recklessly.

8 b. Death by auto is a crime of the third degree and,
9 notwithstanding the provisions of 2C:43-2, the court may not
10 suspend the imposition of sentence on any defendant convicted
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12 influence of an intoxicating liquor, narcotic, hallucinogenic or
13 habit-producing drug, and any sentence imposed under this
14 section shall include either a fixed minimum term of 270 days
15 imprisonment, during which the defendant shall be ineligible for
16 parole, or a requirement that the defendant perform a
17 community related service for a minimum of 270 days.

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

21 d. Nothing herein shall be deemed to preclude, if the
22 evidence so warrants, an indictment and conviction for
23 manslaughter under the provisions of N.J.S. 2C:11-4. If an
24 indictment for manslaughter is brought in a case involving the
25 operation of a motor vehicle, death by auto shall be considered a
26 lesser-included offense.

27 2. This act shall take effect immediately.

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

Matter underlined thus is new matter.

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STATEMENT

3 In State v. Milligan, decided September 29, 1986, the New
5 Jersey Supreme Court ruled that criminal defendants could not
7 be charged with both manslaughter and death by auto in cases
9 involving vehicular homicide. This bill is intended to reverse
11 this decision by providing that nothing in the death by auto
13 statute shall be construed to preclude an indictment and
15 conviction for manslaughter if the evidence so warrants. If
17 manslaughter is charged in a case involving the operation of a
19 motor vehicle, death by auto is to be considered a
21 lesser-included offense.

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CRIMINAL JUSTICE

Motor Vehicles

17

19 Provides that the death by auto statute does not preclude
21 indictment and conviction for manslaughter.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1315

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Assembly Judiciary Committee reports favorably Assembly bill No. 1315.

This bill provides that nothing in the death by auto statute shall be construed to preclude an indictment and conviction for manslaughter, if the evidence so warrants. If manslaughter is charged in a case involving the operation of a motor vehicle, death by auto is to be considered a lesser-included offense.

In State v. Milligan, 202 N.J. Super. 336 (App. Div. 1985) aff'd 104 N.J. 67 (1986), the New Jersey Supreme Court ruled that criminal defendants could not be charged with both manslaughter and death by auto in cases involving vehicular homicide. This bill is intended to reverse that decision.

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 performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1315

STATE OF NEW JERSEY

DATED: MAY 26, 1988

The Senate Judiciary Committee reports favorably Assembly Bill No. 1315.

This bill provides that nothing in the death by auto statute shall be construed to preclude an indictment and conviction for manslaughter, if the evidence so warrants. If manslaughter is charged in a case involving the operation of a motor vehicle, death by auto is to be considered a lesser-included offense.

In State v. Milligan, 202 N.J. Super 336 (App. Div. 1985) aff'd 104 N.J. 67 (1986), the New Jersey Supreme Court ruled that criminal defendants could not be charged with both manslaughter and death by auto in cases involving vehicular homicide. This bill is intended to reverse that decision.