

2C:11-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:11-5 and 2C:12-1

(Assault by auto--
establish as offense)

LAWS OF: 1985

CHAPTER: 97

Bill No: S485

Sponsor(s): DiFrancesco and Russo

Date Introduced: Pre-filed

Committee: Assembly: Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes

Amendments during passage
denoted by asterisks

Date of Passage: Assembly:

Feb. 4, 1985

Senate:

Nov. 19, 1984

Date of Approval: March 27, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly ~~No~~ YES

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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SENATE, No. 485

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senators DiFRANCESCO and RUSSO

AN ACT concerning death by auto and assault and amending N. J. S.
2C:11-5 and N. J. S. 2C:12-1.

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

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

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

4 b. Death by auto is a crime of the **[fourth]** *third* degree and
5 notwithstanding the provisions of 2C:43-2, the court may not
6 suspend the imposition of sentence on any defendant convicted
7 under this section who was operating the vehicle under the influence
8 of an intoxicating liquor, narcotic, hallucinogenic or habit-produc-
9 ing drug and any sentence imposed under this section shall include
10 either a fixed minimum term of **[120]** **[180]* *270** days imprison-
11 ment during which the defendant shall be ineligible for parole or
12 a requirement that the defendant perform a community related
13 service for a minimum of **[120]** **[180]* *270** days.

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

1 2. N. J. S. 2C:12-1 is amended to read as follows:

2 2C:12-1. Assault. a. Simple assault. A person is guilty of
3 assault if he:

4 (1) Attempts to cause or purposely, knowingly or recklessly
5 causes bodily injury to another; or

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted December 13, 1984.

6 (2) Negligently causes bodily injury to another with a deadly
7 weapon; or

8 (3) Attempts by physical menace to put another in fear of
9 imminent serious bodily injury.

10 Simple assault is a disorderly persons offense unless committed
11 in a fight or scuffle entered into by mutual consent, in which case
12 it is a petty disorderly persons offense.

13 b. Aggravated assault. A person is guilty of aggravated assault
14 if he:

15 (1) Attempts to cause serious bodily injury to another, or causes
16 such injury purposely or knowingly or under circumstances mani-
17 festing extreme indifference to the value of human life recklessly
18 causes such injury; or

19 (2) Attempts to cause or purposely or knowingly causes bodily
20 injury to another with a deadly weapon; or

21 (3) Recklessly causes bodily injury to another with a deadly
22 weapon; or

23 (4) Knowingly under circumstances manifesting extreme in-
24 difference to the value of human life points a firearm, as defined in
25 section 2C:39-1f., at or in the direction of another, whether or
26 not the actor believes it to be loaded; or

27 (5) Commits a simple assault as defined in subsection a. (1) and
28 (2) of this section upon

29 (a) Any law enforcement officer acting in the performance of
30 his duties while in uniform or exhibiting evidence of his authority;
31 or

32 (b) Any paid or volunteer fireman acting in the performance of
33 his duties while in uniform or otherwise clearly identifiable as being
34 engaged in the performance of the duties of a fireman; or

35 (c) Any person engaged in emergency first-aid or medical ser-
36 vices acting in the performance of his duties while in uniform or
37 otherwise clearly identifiable as being engaged in the performance
38 of emergency first-aid or medical services; or

39 (d) Any school board member or school administrator, teacher or
40 other employee of a school board while clearly identifiable as being
41 engaged in the performance of his duties or because of his status
42 as a member or employee of a school board.

43 Aggravated assault under subsection b. (1) is a crime of the
44 second degree; under subsection b. (2) is a crime of the third
45 degree; under subsection b. (3) and b. (4) is a crime of the fourth
46 degree; and under subsection b. (5) is a crime of the third degree
47 if the victim suffers bodily injury, otherwise it is a crime of the
48 fourth degree.

49 c. A person is guilty of assault by auto when the person *drives
50 a vehicle recklessly and*causes *either* serious bodily injury or
51 bodily injury to another ***[by driving a vehicle recklessly]***. As-
52 sault by auto is a crime of the fourth degree if serious bodily injury
53 results and is a disorderly persons offense if bodily injury results.

1 3. This act shall take effect immediately.

49-50 *c. A person is guilty of assault by auto when the person causes*
51 *serious bodily injury or bodily injury to another by driving a vehicle*
52 *recklessly. Assault by auto is a crime of the fourth degree if serious*
53 *bodily injury results and is a disorderly persons offense if bodily*
54 *injury results.*

1 3. This act shall take effect immediately.

STATEMENT

Presently, death by auto is punishable as a crime of the fourth degree and if a person commits death by auto while under the influence of liquor or drugs, the court must impose a term of parole ineligibility of 120 days or 120 days of community service. This bill would classify death by auto as a crime of the third degree and raise the mandatory term of imprisonment or period of community service to 180 days.

Additionally, the bill would establish the offense of assault by auto. Assault by auto would occur when a person causes bodily injury to another by driving a vehicle recklessly. If serious bodily injury results, assault by auto would be punishable as a crime of the fourth degree. If bodily injury results, the person would be guilty of a disorderly persons offense.

5485 (1984)

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 485

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1984

Presently, death by auto is punishable as a crime of the fourth degree (up to 18 months' imprisonment) and if a person commits death by auto while under the influence of alcohol or drugs, the court must impose either 120 days imprisonment or 120 days of community service. This bill would upgrade death by auto to a crime of the third degree (between three and five years' imprisonment). This bill would also raise the mandatory penalty for death by auto while under the influence of alcohol or drugs to 180 days imprisonment or 180 days of community service.

Additionally, the bill would establish the offense of assault by auto which would cover the same type of circumstances which would give rise to a death by auto conviction except bodily injury rather than death was the result of the accident. Assault by auto would occur when a person causes bodily injury to another by driving a vehicle recklessly. If serious bodily injury results, assault by auto would be punishable as a crime of the fourth degree. If bodily injury results, the person would be guilty of a disorderly persons offense (up to six months' imprisonment).

ASSEMBLY LAW, PUBLIC SAFETY AND DEFENSE
COMMITTEE

STATEMENT TO
SENATE, No. 485
with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 1984

As amended by the Assembly Law, Public Safety and Defense Committee, Senate Bill No. 485 establishes the offense of assault by auto. Assault by auto would occur when a person injures another by driving a motor vehicle recklessly. If serious bodily injury results from an accident, a person would be charged with a crime of the fourth degree. If only bodily injury results from an accident, a person would be charged with a disorderly persons offense.

This bill also increases the fixed minimum term of imprisonment or community related service from 120 days to 270 days for a person convicted of death by auto while under the influence of alcohol or drugs. This amendment was made to create a logical correlation to the increase of the penalty for death by auto to a crime of the third degree.

The amendment in the bill to increase the penalty for death by auto to a crime of the third degree conforms the bill to current law.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: CARL GOLDEN
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Release: WED., MARCH 27, 1985

Governor Thomas H. Kean today signed legislation establishing death by auto as a crime of the third degree and providing for a mandatory jail term of 270 days for anyone convicted of the charge if he or she was under the influence of alcohol or drugs.

The legislation also creates the crime of assault by auto, defined as injuring a person while driving in a reckless manner.

The legislation, S-485, was sponsored by Senator Donald DiFrancesco, R-Union.

A crime of the third degree is punishable by a prison term of three to five years and/or a fine of up to \$7,500. A crime of the fourth degree is punishable by up to 18 months in prison and/or a fine of up to \$7,500.

Kean also signed legislation to appropriate \$500,000 to support a program to protect Deal Lake in Monmouth County from a continuing silting problem.

The bill, S-2085, was sponsored by Senator Frank Pallone, D-Monmouth, and will finance the stabilization of the banks of tributaries and to construct catchbasins for silt retention.

- [REDACTED] -