

2C:17-7 to 2C:17-9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:17-7 to 2C:17-9

(Nuclear electric
plants--establish
sabotage as a crime)

LAWS OF: 1983

CHAPTER: 480

Bill No: S537

Sponsor(s): Dorsey and others

Date Introduced: Pre-filed

Committee: **Assembly:** Judiciary, Law, Public Safety and Defense

Senate: Energy and Environment

Amended during passage: Yes Senate Committee Substitute
(OCR) enacted. Amendments
denoted by asterisks

Date of Passage: **Assembly:** March 14, 1983 Re-enacted 1-5-84

Senate: October 25, 1982 Re-enacted 12-8-83

Date of Approval: January 17, 1984

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~~ Yes

Following were printed:

Reports: No

Hearings: No

rdv

1-17-84

[OFFICIAL COPY REPRINT]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 537

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 23, 1982

AN ACT concerning certain unauthorized acts at nuclear electric generating plants, and supplementing chapter 17 of Title 2C of the New Jersey Statutes.

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

1 1. The provisions of N. J. S. 2C:17-2 to the contrary notwith-
 2 standing, any person who purposely or knowingly damages or
 3 tampers with any machinery, device, or equipment at a nuclear
 4 electric generating plant with the intent to cause or threaten to
 5 cause an unauthorized release of radiation commits a crime of the
 6 third degree, and may be sentenced to an extended term of im-
 7 prisonment as set forth in paragraph (4) of subsection a. of N. J. S.
 8 2C:43-7 **notwithstanding the provisions of N. J. S. 2C:44-3**.

1 2. Any person who purposely or knowingly damages or tampers
 2 with any machinery, device, or equipment at a nuclear electric
 3 generating plant which results in the death of another due to ex-
 4 posure to radiation commits a crime of the first degree, and may
 5 be sentenced to an extended term of imprisonment as set forth in
 6 paragraph (2) of subsection a. of N. J. S. 2C:43-7 **notwithstanding*
 7 *the provisions of N. J. S. 2C:44-3**.

1 3. Any person who purposely or knowingly damages or tampers
 2 with any machinery, device, or equipment at a nuclear electric
 3 generating plant which results in the injury of another due to
 4 exposure to radiation commits a crime of the second degree, and
 5 may be sentenced to an extended term of imprisonment as set
 6 forth in paragraph (3) of subsection a. of N. J. S. 2C:43-7 **notwith-*
 7 *standing the provisions of N. J. S. 2C:44-3**.

1 4. This act shall take effect immediately.

Matter printed in italics thus is new matter.

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

***—Senate amendments adopted in accordance with Governor's recommenda-
 tions November 28, 1983.**

SENATE, No. 537

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senators DORSEY, DiFRANCESCO, MUSTO, VREELAND, GAGLIANO, LASKIN, ORECHIO, ZANE, KENNEDY, HAGEDORN, GREGORIO, FORAN, DUMONT, LIPMAN and WEISS

AN ACT concerning the destruction or damage of public utilities facilities and supplementing chapter 17 of Title 2C of the New Jersey Statutes.

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

1 1. a. Notwithstanding the provisions of N. J. S. 2C:17-2 to the
2 contrary, a person who purposely or knowingly destroys or dam-
3 ages a facility, equipment or material of a public utility, the de-
4 struction or damage of which might threaten the release of radio-
5 active materials or ionizing radiation beyond the areas in which
6 they are normally used or contained, commits a crime of the third
7 degree and may be sentenced to an extended term of imprisonment
8 which shall be fixed by the court between 5 and 10 years.

9 b. A person who violates subsection a. of this section where the
10 destruction or damage results in the death of another due to ex-
11 posure to radioactive materials or ionizing radiation, commits a
12 crime of the first degree and may be sentenced to an extended term
13 of imprisonment which shall be fixed by the court between 20
14 years and life imprisonment.

15 c. A person who violates subsection a. of this section where the
16 destruction or damage results in injury to another due to exposure
17 to radioactive materials or ionizing radiation, commits a crime of
18 the second degree and may be sentenced to an extended term which
19 shall be fixed by the court between 10 and 20 years.

1 2. This act shall take effect immediately.

STATEMENT

This bill establishes a separate offense against property under the New Jersey Code of Criminal Justice for the destruction or damage of facilities of public utilities in a manner which would threaten the release of radioactive materials or ionizing radiation.

There have been several instances in recent times where individuals have attempted to sabotage nuclear power plants. A recent example was the April, 1979 sabotage at the Surry Nuclear Power Plant in Virginia, where sodium hydroxide was deliberately poured over nuclear fuel elements, causing \$1 million in damages. This bill is intended to establish stiff penalties against similar actions in New Jersey.

5537 (1983)

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
SENATE, No. 537

STATE OF NEW JERSEY

DATED: JANUARY 20, 1983

Presently, under the criminal code, a person who destroys or damages a nuclear power plant could be prosecuted under a number of offenses depending on the nature of the destruction or damages. Those offenses include "causing or risking widespread injury or damage" (N. J. S. 2C:17-2), "criminal mischief" (N. J. S. 2C:17-3) and perhaps "arson" (N. J. S. 2C:17-1). Senate Bill No. 537 would establish a separate offense under the penal code for the destruction of facilities of public utilities in a manner which would threaten the release of radioactive materials or ionizing radiation.

Generally, the new offense would be punishable as a crime of the third degree (ordinary term—three to five years imprisonment). A person found guilty of this offense could also be given an extended term of imprisonment of between five and 10 years. If, however, a death results from exposure to radioactive materials or ionizing radiation, the person would be guilty of a crime of the first degree (ordinary term—between 10 and 20 years imprisonment) and would be eligible for an extended term of between 20 years and life imprisonment. If an injury results from exposure, the person would be guilty of a crime of the second degree (ordinary term—between five and 10 years imprisonment) and would be eligible for an extended term of between 10 and 20 years imprisonment.

SENATE ENERGY AND ENVIRONMENT COMMITTEE
STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 537

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STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 1982

Senate Bill No. 537 OCR established separate criminal penalties for tampering with or damaging equipment or devices at a nuclear electric generating plant, and allowed extended prison terms to be imposed on those convicted of such acts.

More specifically, Senate Bill No. 537 OCR provided that any person tampering or damaging equipment or devices at a nuclear electric generating plant with the intention of causing or threatening to cause a release of radiation commits a crime of the third degree. If the inquiry of another due to radiation results from such activity, the person commits a crime of the second degree; if the death of another results from such activity, the person commits a crime of the first degree.

The committee adopted a committee substitute for Senate Bill No. 537 OCR which incorporates technical and language changes but does not alter the substance of Senate Bill No. 537 OCR.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

April 25, 1983

SENATE BILL NO. 537 (^{SCS}~~Seases~~)

To the Senate:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Senate Bill No. 537 with my objection and recommendation for amendment.

The purpose of this bill is to establish a separate offense under the New Jersey Code of Criminal Justice for the destruction of or damage to public utilities that would threaten or cause to be released radioactive materials or ionizing radiation. The bill also provides for sentencing requirements where the destruction or damage results in death or injury to another. Additionally, a person who violates any section under this Act may be sentenced to an extended term of imprisonment as set forth in N.J.S.A. 2C:43-7.

Generally, a defendant, to be sentenced to an extended term of imprisonment, must satisfy one or more of the aggravating factors set forth in N.J.S.A. 2C:44-3. N.J.S.A. 2C:44-3 provides that the court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second, or third degree to an extended term of imprisonment if:

1. The defendant is a persistent offender;
2. The defendant is a professional criminal;
3. The defendant committed the crime as consideration for the receipt or in expectation of the receipt of anything of pecuniary value; or
4. The defendant has committed a second offense with a firearm.

Cognizant of the danger, destruction, and injury that could be caused by the damage to or tampering with the equipment at a nuclear electric generating plant, the Legislature, through S-537, intended that a defendant could be sentenced to an extended term of imprisonment for the violation of any section of S-537, notwithstanding the provisions of N.J.S.A. 2C:44-3. S-537, as drafted, does not clearly express the Legislature's intent. Accordingly, I propose amending S-537 to make clear that the provisions of N.J.S.A. 2C:44-3 shall not be applicable as a prerequisite to sentencing a person to an extended term of imprisonment for the violation of any section of S-537.

S-1791 SIGNED, ET AL.

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JANUARY 17, 1984

S-537, sponsored by State Senator John H. Dorsey, R-Morris, which makes it a third degree crime to destroy or damage facilities of public utilities in a manner which would threaten the release of radioactive materials or ionizing radiation. A third degree crime carries a prison sentence of between five and ten years.

S-3133, sponsored by State Senator Frank X. Graves, D-Passaic, which amends the motor vehicle statutes to allow only a person who has completed a driver education course to retain and use a special learner's permit.

S-3366, sponsored by State Senator John F. Russo, D-Ocean, which repeals statutes authorizing municipalities to enter into certain contracts and to appropriate funds, borrow money and issue negotiable notes. These provisions have been superceded by provisions of the "Local Budget Law" and are accordingly no longer necessary.

S-3792, sponsored by State Senator Joseph Hirkala, D-Passaic, which appropriates \$500,000 in Federal funds to the Department of Labor for dislocated worker programs.

S-618, sponsored by State Senator Carmen A. Orechio, D-Essex, which provides reimbursement for registered professional nurses under Blue Shield insurance contracts if the nurse is not being paid a salary by a hospital or health care provider.

S-1143, also sponsored by Senator Orechio, which expands the subsidized adoption program to include all "hard to place" children.