

2A: 81-17.3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:81-17.3

(Immunity Statute-- includes information directly or indirectly derived from testimony)

LAWS OF: 1973

CHAPTER: 112

Bill No: S1154

Sponsor(s): Judiciary

Date Introduced: November 13, 1972

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: No

Date of Passage: Assembly: April 2, 1973

Senate: January 29, 1973

Date of Approval: May 7, 1973

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

## SENATE, No. 1154

## STATE OF NEW JERSEY

INTRODUCED NOVEMBER 13, 1972

By Senators WOODCOCK and WENDEL

Referred to Committee on Judiciary

AN ACT to amend "An act providing for the compelling of evidence from certain persons in criminal proceedings and for the granting of immunity to such persons from the use of such evidence against them in certain cases," approved July 19, 1968 (P. L. 1968, c. 195).

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

1 1. Section 1 of P. L. 1968, c. 195 (C. 2A:81-17.3) is amended to  
2 read as follows:

3 1. In any criminal proceeding before a court or grand jury, if a  
4 person refuses to answer a question or produce evidence of any  
5 other kind on the ground that he may be incriminated thereby and  
6 if the Attorney General or the county prosecutor with the approval  
7 of the Attorney General, in writing, requests the court to order that  
8 person to answer the question or produce the evidence, the court  
9 shall so order and that person shall comply with the order. After  
10 complying and if but for this section, he would have been privileged  
11 to withhold the answer given or the evidence produced by him, such  
12 testimony or evidence, *or any information directly or indirectly*  
13 *derived from such testimony or evidence*, may not be used against  
14 the person in any proceeding or prosecution for a crime or offense  
15 concerning which he gave answer or produced evidence under court  
16 order. However, he may nevertheless be prosecuted or subjected  
17 to penalty or forfeiture for any perjury, false swearing or con-  
18 tempt committed in answering, or failing to answer, or in produc-  
19 ing, or failing to produce, evidence in accordance with the order.  
20 If a person refuses to testify after being granted immunity from  
21 prosecution and after being ordered to testify as aforesaid, he may  
22 be adjudged in contempt and committed to the county jail until  
23 such time as he purges himself of contempt by testifying as ordered

24 without regard to the expiration of the grand jury; provided, how-  
25 ever, that if the grand jury before which he was ordered to testify  
26 has been dissolved, he may then purge himself by testifying before  
27 the court.

1 2. This act shall take effect immediately.

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#### STATEMENT

This bill conforms the General Witness Immunity Statute, N. J. S. 2A:81-17.3 with the immunity statute employed by the State Commission of Investigation which was upheld by the United States Supreme Court in *Zicarelli v. New Jersey State Commission of Investigation*, 40 U. S. L. W. 4560 (May 22, 1972).

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1154

STATE OF NEW JERSEY

DATED: JANUARY 22, 1973

This bill would amend the statute granting immunity from use of evidence or testimony compelled to be given in criminal proceedings to make it clear that this immunity extends to information derived from the testimony or evidence involved.

The immunity statute employed by the State Commission of Investigation (P. L. 1968, c. 266, § 17, C. 52:9M-17) was upheld by the U. S. Supreme Court in *Zacarelli v. N. J. State Commission of Investigation* (40 U. S. L. W. 4560) which was decided the same day as *Kastigan v. U. S.* (40 U. S. L. W. 4550.) The latter case upheld the federal immunity statute (18 U. S. C. 6002) from which was taken the new language which would be added to New Jersey's general immunity statute (C. 2A:81-17.3) by this bill.

While stated differently, both the Federal and the S. C. I. statutes give immunity for evidence derived from compelled testimony but neither require total transactional immunity.

It was at one time thought that transactional immunity, i.e., complete immunity from prosecution for the crime involved, was necessary to overcome the privilege granted by the Fifth Amendment against self-incrimination.

In these cases, it has been held otherwise by the Supreme Court. However, more than simple immunity for the evidence given, does appear to be required.

FROM THE OFFICE OF THE GOVERNOR

MAY 7, 1973

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill signed into law today a bill extending immunity protection to persons testifying, in accordance with a U.S. Supreme Court ruling.

✓ Senate Bill 1154, sponsored by Senator Joseph C. Woodcock, Jr., (R., Bergen), broadens New Jersey immunity statute to include any information directly or indirectly derived from testimony or evidence.

Under the previous New Jersey statute, a person granted immunity to testify was protected only against the use of his testimony. Under the new law he would also be protected from any evidence which might be developed as a result of his testimony.

The Governor also signed into law the following bills:

Senate Bill 1264, sponsored by Senator Harold C. Hollenbeck, (R., Bergen), which prescribes additional methods for the destruction of hypodermic needles or syringes.

Assembly Bill 66, sponsored by Assemblyman John J. Fay, Jr., (D. Middlesex), which provides that an attorney shall be compensated for services rendered in connection with the issuance of bonds at a reasonable rate agreed on prior to the rendering of the services, not applicable to bond issues proposed before January 1, 1973.

Assembly Bill 329, sponsored by Assemblyman John H. Ewing, (R., Somerset), which requires written consent of a parent or guardian of a pupil and of a physician of the parents' or guardians' choice prior to the administration to a pupil by school authorities of any drug or medication for experimental purposes for stimulating the learning process.

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Assembly Bill 1141, sponsored by Assemblyman Benjamin Mable, (R. Ocean), which increases the maximum amount of fines for a violation of the regulation concerning parking on State controlled property and altering or counterfeiting or misusing parking permits.

Assembly Bill 1174, sponsored by Assemblyman Brian T. Kennedy, (R., Monmouth), which redesignates the "Motor Carriers Road Tax Act" to the "Motor Fuels Use Tax Act"; impose a motor fuels use tax upon certain motor fuel users; effective July 1, 1973.

Assembly Bill 1187, sponsored by Assemblyman Chester Apy, (R. Monmouth), which prescribes the method for summoning a jury when the general panel or list of jurors has been exhausted.

Assembly Bill 1265, sponsored by Assemblyman Richard W. DeKorte, (R. Bergen), which provides for the standardization of regulations and procedures governing county boards of taxation; effective January 1, 1974.

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