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**NEWSPAPER ARTICLES:**

Yes

"Hit-and-run penalty raised," 4-26-2003 Courier-News p.A3

"New Jersey law increases hit-and-run penalties," 4-26-2003 Philadelphia Inquirer, pB2.

"3<sup>rd</sup> Newark hit-run injures man and woman," 4-26-2003 Star Ledger, p.16

P.L. 2003, CHAPTER 55, *approved April 23, 2003*  
Assembly, No. 2901 (*First Reprint*)

1 AN ACT concerning certain motor vehicle accidents and amending  
2 R.S.39:4-129, P.L.1997, c.111 and N.J.S.2C:44-1.

3

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

6

7 1. R.S.39:4-129 is amended to read as follows:

8 39:4-129. (a) The driver of any vehicle, knowingly involved in an  
9 accident resulting in injury or death to any person shall immediately  
10 stop the vehicle at the scene of the accident or as close thereto as  
11 possible but shall then forthwith return to and in every event shall  
12 remain at the scene until he has fulfilled the requirements of subsection  
13 (c) of this section. Every such stop shall be made without obstructing  
14 traffic more than is necessary. Any person who shall violate this  
15 subsection shall be fined not less than [~~\$500~~] \$2,500 nor more than  
16 [~~\$1,000 or be imprisoned for a period of 180 days, or both, for the~~  
17 ~~first offense, and for a subsequent offense shall be fined not less than~~  
18 ~~\$1,000 nor more than \$2,000~~] \$5,000, or be imprisoned for a period  
19 of 180 days, or both. The term of imprisonment required by this  
20 subsection shall be imposed only if the accident resulted in death or  
21 injury to a person other than the driver convicted of violating this  
22 section.

23 In addition, any person convicted under this subsection shall forfeit  
24 his right to operate a motor vehicle over the highways of this State for  
25 a period of one year from the date of his conviction for the first  
26 offense and for a subsequent offense shall thereafter permanently  
27 forfeit his right to operate a motor vehicle over the highways of this  
28 State.

29 (b) The driver of any vehicle knowingly involved in an accident  
30 resulting only in damage to a vehicle, including his own vehicle, or  
31 other property which is attended by any person shall immediately stop  
32 his vehicle at the scene of such accident or as close thereto as possible,  
33 but shall then forthwith return to and in every event shall remain at the  
34 scene of such accident until he has fulfilled the requirements of  
35 subsection (c) of this section. Every such stop shall be made without  
36 obstructing traffic more than is necessary. Any person who shall  
37 violate this subsection shall be fined not less than \$200 nor more than  
38 \$400, or be imprisoned for a period of not more than 30 days, or both,  
39 for the first offense, and for a subsequent offense, shall be fined not  
40 less than \$400 nor more than \$600, or be imprisoned for a period of

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly ALP committee amendments adopted February 3, 2003.

1 not less than 30 days nor more than 90 days or both.

2 In addition, a person who violates this subsection shall, for a first  
3 offense, forfeit the right to operate a motor vehicle in this State for a  
4 period of six months from the date of conviction, and for a period of  
5 one year from the date of conviction for any subsequent offense.

6 (c) The driver of any vehicle knowingly involved in an accident  
7 resulting in injury or death to any person or damage to any vehicle or  
8 property shall give his name and address and exhibit his operator's  
9 license and registration certificate of his vehicle to the person injured  
10 or whose vehicle or property was damaged and to any police officer  
11 or witness of the accident, and to the driver or occupants of the  
12 vehicle collided with and render to a person injured in the accident  
13 reasonable assistance, including the carrying of that person to a  
14 hospital or a physician for medical or surgical treatment, if it is  
15 apparent that the treatment is necessary or is requested by the injured  
16 person.

17 In the event that none of the persons specified are in condition to  
18 receive the information to which they otherwise would be entitled  
19 under this subsection, and no police officer is present, the driver of any  
20 vehicle involved in such accident after fulfilling all other requirements  
21 of subsections (a) and (b) of this section, insofar as possible on his part  
22 to be performed, shall forthwith report such accident to the nearest  
23 office of the local police department or of the county police of the  
24 county or of the State Police and submit thereto the information  
25 specified in this subsection.

26 (d) The driver of any vehicle which knowingly collides with or is  
27 knowingly involved in an accident with any vehicle or other property  
28 which is unattended resulting in any damage to such vehicle or other  
29 property shall immediately stop and shall then and there locate and  
30 notify the operator or owner of such vehicle or other property of the  
31 name and address of the driver and owner of the vehicle striking the  
32 unattended vehicle or other property or, in the event an unattended  
33 vehicle is struck and the driver or owner thereof cannot be  
34 immediately located, shall attach securely in a conspicuous place in or  
35 on such vehicle a written notice giving the name and address of the  
36 driver and owner of the vehicle doing the striking or, in the event  
37 other property is struck and the owner thereof cannot be immediately  
38 located, shall notify the nearest office of the local police department  
39 or of the county police of the county or of the State Police and in  
40 addition shall notify the owner of the property as soon as the owner  
41 can be identified and located. Any person who violates this subsection  
42 shall be punished as provided in subsection (b) of this section.

43 (e) The driver of any motor vehicle involved in an accident  
44 resulting in injury or death to any person or damage in the amount of  
45 \$250.00 or more to any vehicle or property shall be presumed to have  
46 knowledge that he was involved in such accident, and such

1 presumption shall be rebuttable in nature.

2 For purposes of this section, it shall not be a defense that the  
3 operator of the motor vehicle was unaware of the existence or extent  
4 of personal injury or property damage caused by the accident as long  
5 as the operator was aware that he was involved in an accident.

6 (cf: P.L.1994, c.183, s.1)

7

8 2. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to read  
9 as follows:

10 1. A motor vehicle operator who knows he is involved in an  
11 accident and knowingly leaves the scene of that accident under  
12 circumstances that violate the provisions of R.S. 39:4-129 shall be  
13 guilty of a crime of the third degree if the accident results in the death  
14 of another person. The presumption of nonimprisonment set forth in  
15 N.J.S.2C:44-1 shall not apply to persons convicted under the  
16 provisions of this section.

17 If the evidence so warrants, nothing in this section shall be deemed  
18 to preclude an indictment and conviction for aggravated manslaughter  
19 under the provisions of N.J.S.2C:11-4 or vehicular homicide under the  
20 provisions of N.J.S.2C:11-5.

21 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
22 provisions of law, a conviction arising under this section shall not  
23 merge with a conviction for aggravated manslaughter under the  
24 provisions of N.J.S.2C:11-4 or for vehicular homicide under the  
25 provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed  
26 upon each such conviction.

27 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
28 provisions of law, when the court imposes multiple sentences of  
29 imprisonment for more than one offense, those sentences shall run  
30 consecutively.

31 For the purposes of this section, neither knowledge of the death nor  
32 knowledge of the violation are elements of the offense and it shall not  
33 be a defense that the operator of the motor vehicle was unaware of the  
34 death or of the provisions of R.S.39:4-129.

35 (cf: P.L.1997, c.111, s.1)

36

37 3. Section 2 of P.L.1997, c.111 (C.2C:12-1.1) is amended to read  
38 as follows:

39 2. A motor vehicle operator who knows he is involved in an  
40 accident and knowingly leaves the scene of that accident under  
41 circumstances that violate the provisions of R.S.39:4-129 shall be  
42 guilty of a crime of the fourth degree if the accident results in serious  
43 bodily injury to another person. The presumption of nonimprisonment  
44 set forth in N.J.S.2C:44-1 shall not apply to persons convicted under  
45 the provisions of this section.

46 If the evidence so warrants, nothing in this section shall be deemed

1 to preclude an indictment and conviction for aggravated assault or  
2 assault by auto under the provisions of N.J.S.2C:12-1.

3 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
4 provisions of law, a conviction arising under this section shall not  
5 merge with a conviction for aggravated assault or assault by auto  
6 under the provisions of N.J.S.2C:12-1 and a separate sentence shall be  
7 imposed upon each conviction.

8 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
9 provisions of law, whenever in the case of such multiple convictions  
10 the court imposes multiple sentences of imprisonment for more than  
11 one offense, those sentences shall run consecutively.

12 For the purposes of this section, neither knowledge of the serious  
13 bodily injury nor knowledge of the violation are elements of the  
14 offense and it shall not be a defense that the driver of the motor  
15 vehicle was unaware of the serious bodily injury or provisions of  
16 R.S.39:4-129.

17 (cf: P.L.1997, c.111, s.2)

18

19 4. N.J.S.2C:44-1 is amended to read as follows:

20 2C:44-1. Criteria for Withholding or Imposing Sentence of  
21 Imprisonment. a. In determining the appropriate sentence to be  
22 imposed on a person who has been convicted of an offense, the court  
23 shall consider the following aggravating circumstances:

24 (1) The nature and circumstances of the offense, and the role of the  
25 actor therein, including whether or not it was committed in an  
26 especially heinous, cruel, or depraved manner;

27 (2) The gravity and seriousness of harm inflicted on the victim,  
28 including whether or not the defendant knew or reasonably should have  
29 known that the victim of the offense was particularly vulnerable or  
30 incapable of resistance due to advanced age, ill-health, or extreme  
31 youth, or was for any other reason substantially incapable of exercising  
32 normal physical or mental power of resistance;

33 (3) The risk that the defendant will commit another offense;

34 (4) A lesser sentence will depreciate the seriousness of the  
35 defendant's offense because it involved a breach of the public trust  
36 under chapters 27 and 30, or the defendant took advantage of a position  
37 of trust or confidence to commit the offense;

38 (5) There is a substantial likelihood that the defendant is involved  
39 in organized criminal activity;

40 (6) The extent of the defendant's prior criminal record and the  
41 seriousness of the offenses of which he has been convicted;

42 (7) The defendant committed the offense pursuant to an agreement  
43 that he either pay or be paid for the commission of the offense and the  
44 pecuniary incentive was beyond that inherent in the offense itself;

45 (8) The defendant committed the offense against a police or other  
46 law enforcement officer, correctional employee or fireman, acting in  
47 the performance of his duties while in uniform or exhibiting evidence

1 of his authority; the defendant committed the offense because of the  
2 status of the victim as a public servant; or the defendant committed the  
3 offense against a sports official, athletic coach or manager, acting in or  
4 immediately following the performance of his duties or because of the  
5 person's status as a sports official, coach or manager;

6 (9) The need for deterring the defendant and others from violating  
7 the law;

8 (10) The offense involved fraudulent or deceptive practices  
9 committed against any department or division of State government;

10 (11) The imposition of a fine, penalty or order of restitution without  
11 also imposing a term of imprisonment would be perceived by the  
12 defendant or others merely as part of the cost of doing business, or as  
13 an acceptable contingent business or operating expense associated with  
14 the initial decision to resort to unlawful practices;

15 (12) The defendant committed the offense against a person who he  
16 knew or should have known was 60 years of age or older, or disabled;  
17 and<sup>1</sup>

18 (13) The defendant, while in the course of committing or  
19 attempting to commit the crime, including the immediate flight  
20 therefrom, used or was in possession of a stolen motor vehicle <sup>1</sup> [;

21 (14) As the operator of a motor vehicle, the defendant knowingly  
22 left the scene of an accident which resulted in the death or serious  
23 bodily injury of another person]<sup>1</sup>.

24 b. In determining the appropriate sentence to be imposed on a  
25 person who has been convicted of an offense, the court may properly  
26 consider the following mitigating circumstances:

27 (1) The defendant's conduct neither caused nor threatened serious  
28 harm;

29 (2) The defendant did not contemplate that his conduct would  
30 cause or threaten serious harm;

31 (3) The defendant acted under a strong provocation;

32 (4) There were substantial grounds tending to excuse or justify the  
33 defendant's conduct, though failing to establish a defense;

34 (5) The victim of the defendant's conduct induced or facilitated its  
35 commission;

36 (6) The defendant has compensated or will compensate the victim  
37 of his conduct for the damage or injury that he sustained, or will  
38 participate in a program of community service;

39 (7) The defendant has no history of prior delinquency or criminal  
40 activity or has led a law-abiding life for a substantial period of time  
41 before the commission of the present offense;

42 (8) The defendant's conduct was the result of circumstances  
43 unlikely to recur;

44 (9) The character and attitude of the defendant indicate that he is  
45 unlikely to commit another offense;

46 (10) The defendant is particularly likely to respond affirmatively to  
47 probationary treatment;

1 (11) The imprisonment of the defendant would entail excessive  
2 hardship to himself or his dependents;

3 (12) The willingness of the defendant to cooperate with law  
4 enforcement authorities;

5 (13) The conduct of a youthful defendant was substantially  
6 influenced by another person more mature than the defendant.

7 c. (1) A plea of guilty by a defendant or failure to so plead shall not  
8 be considered in withholding or imposing a sentence of imprisonment.

9 (2) When imposing a sentence of imprisonment the court shall  
10 consider the defendant's eligibility for release under the law governing  
11 parole, including time credits awarded pursuant to Title 30 of the  
12 Revised Statutes, in determining the appropriate term of imprisonment.

13 d. Presumption of imprisonment. The court shall deal with a  
14 person who has been convicted of a crime of the first or second degree  
15 by imposing a sentence of imprisonment unless, having regard to the  
16 character and condition of the defendant, it is of the opinion that his  
17 imprisonment would be a serious injustice which overrides the need to  
18 deter such conduct by others. Notwithstanding the provisions of  
19 subsection e. of this section, the court shall deal with a person who has  
20 been convicted of theft of a motor vehicle or of the unlawful taking of  
21 a motor vehicle and who has previously been convicted of either  
22 offense by imposing a sentence of imprisonment unless, having regard  
23 to the character and condition of the defendant, it is of the opinion that  
24 his imprisonment would be a serious injustice which overrides the  
25 need to deter such conduct by others.

26 e. The court shall deal with a person convicted of an offense other  
27 than a crime of the first or second degree, who has not previously been  
28 convicted of an offense, without imposing sentence of imprisonment  
29 unless, having regard to the nature and circumstances of the offense  
30 and the history, character and condition of the defendant, it is of the  
31 opinion that his imprisonment is necessary for the protection of the  
32 public under the criteria set forth in subsection a., except that this  
33 subsection shall not apply if the person is convicted of any of the  
34 following crimes of the third degree: theft of a motor vehicle; unlawful  
35 taking of a motor vehicle; or eluding; or if the person is convicted of  
36 a crime of the third or fourth degree constituting bias intimidation in  
37 violation of N.J.S.2C:16-1; or if the person is convicted of a crime of  
38 the third or fourth degree under the provisions of section 1 or 2 of  
39 P.L.1997, c.111 (C.2C:11-5.1 and 2C:12-1.1).

40 f. Presumptive Sentences. (1) Except for the crime of murder,  
41 unless the preponderance of aggravating or mitigating factors, as set  
42 forth in subsections a. and b., weighs in favor of a higher or lower term  
43 within the limits provided in N.J.S.2C:43-6, when a court determines  
44 that a sentence of imprisonment is warranted, it shall impose sentence  
45 as follows:

46 (a) To a term of 20 years for aggravated manslaughter or kidnapping  
47 pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the  
48 offense constitutes a crime of the first degree;



1 (b) Except as provided in paragraph (a) of this subsection to a term  
2 of 15 years for a crime of the first degree;

3 (c) To a term of seven years for a crime of the second degree;

4 (d) To a term of four years for a crime of the third degree; and

5 (e) To a term of nine months for a crime of the fourth degree.

6 In imposing a minimum term pursuant to 2C:43-6b., the sentencing  
7 court shall specifically place on the record the aggravating factors set  
8 forth in this section which justify the imposition of a minimum term.

9 Unless the preponderance of mitigating factors set forth in  
10 subsection b. weighs in favor of a lower term within the limits  
11 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a  
12 presumptive term of life imprisonment. Unless the preponderance of  
13 aggravating and mitigating factors set forth in subsections a. and b.  
14 weighs in favor of a higher or lower term within the limits authorized,  
15 sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive  
16 term of 50 years' imprisonment; sentences imposed pursuant to  
17 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment;  
18 and sentences imposed pursuant to 2C:43-7a.(4) shall have a  
19 presumptive term of seven years' imprisonment.

20 In imposing a minimum term pursuant to 2C:43-7b., the sentencing  
21 court shall specifically place on the record the aggravating factors set  
22 forth in this section which justify the imposition of a minimum term.

23 (2) In cases of convictions for crimes of the first or second degree  
24 where the court is clearly convinced that the mitigating factors  
25 substantially outweigh the aggravating factors and where the interest  
26 of justice demands, the court may sentence the defendant to a term  
27 appropriate to a crime of one degree lower than that of the crime for  
28 which he was convicted. If the court does impose sentence pursuant  
29 to this paragraph, or if the court imposes a noncustodial or  
30 probationary sentence upon conviction for a crime of the first or  
31 second degree, such sentence shall not become final for 10 days in  
32 order to permit the appeal of such sentence by the prosecution.

33 g. Imposition of Noncustodial Sentences in Certain Cases. If the  
34 court, in considering the aggravating factors set forth in subsection a.,  
35 finds the aggravating factor in paragraph a.(2) or a.(12) and does not  
36 impose a custodial sentence, the court shall specifically place on the  
37 record the mitigating factors which justify the imposition of a  
38 noncustodial sentence.

39 h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-11),  
40 the presumption of imprisonment as provided in subsection d. of this  
41 section shall not preclude the admission of a person to the Intensive  
42 Supervision Program, established pursuant to the Rules Governing the  
43 Courts of the State of New Jersey.

44 (cf: P.L.2001, c.443, s.7)

45

46 5. This act shall take effect the first day of the second month  
47 following enactment.

1

\_\_\_\_\_

2

3 Upgrades motor vehicle and criminal penalties for leaving the scene of  
4 an accident.

# ASSEMBLY, No. 2901

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED OCTOBER 10, 2002

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

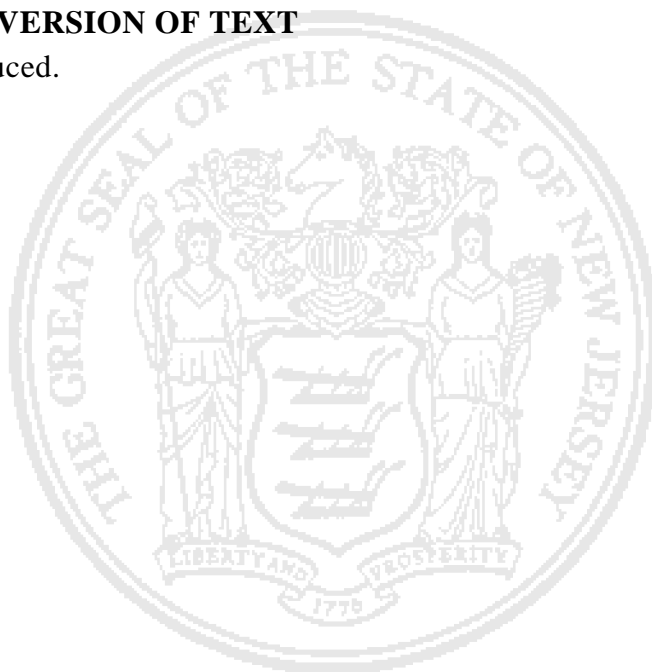
**Assemblywoman Friscia, Assemblymen Guear and R.Smith**

**SYNOPSIS**

Upgrades motor vehicle and criminal penalties for leaving the scene of an accident.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/4/2003)**

A2901 BURZICHELLI, FISHER

2

1 AN ACT concerning certain motor vehicle accidents and amending  
2 R.S.39:4-129, P.L.1997, c.111 and N.J.S.2C:44-1.

3

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

6

7 1. R.S.39:4-129 is amended to read as follows:

8 39:4-129. (a) The driver of any vehicle, knowingly involved in an  
9 accident resulting in injury or death to any person shall immediately  
10 stop the vehicle at the scene of the accident or as close thereto as  
11 possible but shall then forthwith return to and in every event shall  
12 remain at the scene until he has fulfilled the requirements of subsection  
13 (c) of this section. Every such stop shall be made without obstructing  
14 traffic more than is necessary. Any person who shall violate this  
15 subsection shall be fined not less than [~~\$500~~] \$2,500 nor more than  
16 [~~\$1,000~~ or be imprisoned for a period of 180 days, or both, for the  
17 first offense, and for a subsequent offense shall be fined not less than  
18 \$1,000 nor more than ~~\$2,000~~] \$5,000, or be imprisoned for a period  
19 of 180 days, or both. The term of imprisonment required by this  
20 subsection shall be imposed only if the accident resulted in death or  
21 injury to a person other than the driver convicted of violating this  
22 section.

23 In addition, any person convicted under this subsection shall forfeit  
24 his right to operate a motor vehicle over the highways of this State for  
25 a period of one year from the date of his conviction for the first  
26 offense and for a subsequent offense shall thereafter permanently  
27 forfeit his right to operate a motor vehicle over the highways of this  
28 State.

29 (b) The driver of any vehicle knowingly involved in an accident  
30 resulting only in damage to a vehicle, including his own vehicle, or  
31 other property which is attended by any person shall immediately stop  
32 his vehicle at the scene of such accident or as close thereto as possible,  
33 but shall then forthwith return to and in every event shall remain at the  
34 scene of such accident until he has fulfilled the requirements of  
35 subsection (c) of this section. Every such stop shall be made without  
36 obstructing traffic more than is necessary. Any person who shall  
37 violate this subsection shall be fined not less than \$200 nor more than  
38 \$400, or be imprisoned for a period of not more than 30 days, or both,  
39 for the first offense, and for a subsequent offense, shall be fined not  
40 less than \$400 nor more than \$600, or be imprisoned for a period of  
41 not less than 30 days nor more than 90 days or both.

42 In addition, a person who violates this subsection shall, for a first  
43 offense, forfeit the right to operate a motor vehicle in this State for a

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

**Matter underlined thus is new matter.**

1 period of six months from the date of conviction, and for a period of  
2 one year from the date of conviction for any subsequent offense.

3 (c) The driver of any vehicle knowingly involved in an accident  
4 resulting in injury or death to any person or damage to any vehicle or  
5 property shall give his name and address and exhibit his operator's  
6 license and registration certificate of his vehicle to the person injured  
7 or whose vehicle or property was damaged and to any police officer  
8 or witness of the accident, and to the driver or occupants of the  
9 vehicle collided with and render to a person injured in the accident  
10 reasonable assistance, including the carrying of that person to a  
11 hospital or a physician for medical or surgical treatment, if it is  
12 apparent that the treatment is necessary or is requested by the injured  
13 person.

14 In the event that none of the persons specified are in condition to  
15 receive the information to which they otherwise would be entitled  
16 under this subsection, and no police officer is present, the driver of any  
17 vehicle involved in such accident after fulfilling all other requirements  
18 of subsections (a) and (b) of this section, insofar as possible on his part  
19 to be performed, shall forthwith report such accident to the nearest  
20 office of the local police department or of the county police of the  
21 county or of the State Police and submit thereto the information  
22 specified in this subsection.

23 (d) The driver of any vehicle which knowingly collides with or is  
24 knowingly involved in an accident with any vehicle or other property  
25 which is unattended resulting in any damage to such vehicle or other  
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27 notify the operator or owner of such vehicle or other property of the  
28 name and address of the driver and owner of the vehicle striking the  
29 unattended vehicle or other property or, in the event an unattended  
30 vehicle is struck and the driver or owner thereof cannot be  
31 immediately located, shall attach securely in a conspicuous place in or  
32 on such vehicle a written notice giving the name and address of the  
33 driver and owner of the vehicle doing the striking or, in the event  
34 other property is struck and the owner thereof cannot be immediately  
35 located, shall notify the nearest office of the local police department  
36 or of the county police of the county or of the State Police and in  
37 addition shall notify the owner of the property as soon as the owner  
38 can be identified and located. Any person who violates this subsection  
39 shall be punished as provided in subsection (b) of this section.

40 (e) The driver of any motor vehicle involved in an accident  
41 resulting in injury or death to any person or damage in the amount of  
42 \$250.00 or more to any vehicle or property shall be presumed to have  
43 knowledge that he was involved in such accident, and such  
44 presumption shall be rebuttable in nature.

45 For purposes of this section, it shall not be a defense that the  
46 operator of the motor vehicle was unaware of the existence or extent

1 of personal injury or property damage caused by the accident as long  
2 as the operator was aware that he was involved in an accident.  
3 (cf: P.L.1994, c.183, s.1)

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5 2. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to read  
6 as follows:

7 1. A motor vehicle operator who knows he is involved in an  
8 accident and knowingly leaves the scene of that accident under  
9 circumstances that violate the provisions of R.S. 39:4-129 shall be  
10 guilty of a crime of the third degree if the accident results in the death  
11 of another person. The presumption of nonimprisonment set forth in  
12 N.J.S.2C:44-1 shall not apply to persons convicted under the  
13 provisions of this section.

14 If the evidence so warrants, nothing in this section shall be deemed  
15 to preclude an indictment and conviction for aggravated manslaughter  
16 under the provisions of N.J.S.2C:11-4 or vehicular homicide under the  
17 provisions of N.J.S.2C:11-5.

18 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
19 provisions of law, a conviction arising under this section shall not  
20 merge with a conviction for aggravated manslaughter under the  
21 provisions of N.J.S.2C:11-4 or for vehicular homicide under the  
22 provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed  
23 upon each such conviction.

24 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
25 provisions of law, when the court imposes multiple sentences of  
26 imprisonment for more than one offense, those sentences shall run  
27 consecutively.

28 For the purposes of this section, neither knowledge of the death nor  
29 knowledge of the violation are elements of the offense and it shall not  
30 be a defense that the operator of the motor vehicle was unaware of the  
31 death or of the provisions of R.S.39:4-129.

32 (cf: P.L.1997, c.111, s.1)

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36 2. A motor vehicle operator who knows he is involved in an  
37 accident and knowingly leaves the scene of that accident under  
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39 guilty of a crime of the fourth degree if the accident results in serious  
40 bodily injury to another person. The presumption of nonimprisonment  
41 set forth in N.J.S.2C:44-1 shall not apply to persons convicted under  
42 the provisions of this section.

43 If the evidence so warrants, nothing in this section shall be deemed  
44 to preclude an indictment and conviction for aggravated assault or  
45 assault by auto under the provisions of N.J.S.2C:12-1.

46 Notwithstanding the provisions of N.J.S.2C:1-8 or any other

1 provisions of law, a conviction arising under this section shall not  
2 merge with a conviction for aggravated assault or assault by auto  
3 under the provisions of N.J.S.2C:12-1 and a separate sentence shall be  
4 imposed upon each conviction.

5 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
6 provisions of law, whenever in the case of such multiple convictions  
7 the court imposes multiple sentences of imprisonment for more than  
8 one offense, those sentences shall run consecutively.

9 For the purposes of this section, neither knowledge of the serious  
10 bodily injury nor knowledge of the violation are elements of the  
11 offense and it shall not be a defense that the driver of the motor  
12 vehicle was unaware of the serious bodily injury or provisions of  
13 R.S.39:4-129.

14 (cf: P.L.1997, c.111, s.2)

15

16 4. N.J.S.2C:44-1 is amended to read as follows:

17 2C:44-1. Criteria for Withholding or Imposing Sentence of  
18 Imprisonment. a. In determining the appropriate sentence to be  
19 imposed on a person who has been convicted of an offense, the court  
20 shall consider the following aggravating circumstances:

21 (1) The nature and circumstances of the offense, and the role of the  
22 actor therein, including whether or not it was committed in an  
23 especially heinous, cruel, or depraved manner;

24 (2) The gravity and seriousness of harm inflicted on the victim,  
25 including whether or not the defendant knew or reasonably should  
26 have known that the victim of the offense was particularly vulnerable  
27 or incapable of resistance due to advanced age, ill-health, or extreme  
28 youth, or was for any other reason substantially incapable of exercising  
29 normal physical or mental power of resistance;

30 (3) The risk that the defendant will commit another offense;

31 (4) A lesser sentence will depreciate the seriousness of the  
32 defendant's offense because it involved a breach of the public trust  
33 under chapters 27 and 30, or the defendant took advantage of a  
34 position of trust or confidence to commit the offense;

35 (5) There is a substantial likelihood that the defendant is involved  
36 in organized criminal activity;

37 (6) The extent of the defendant's prior criminal record and the  
38 seriousness of the offenses of which he has been convicted;

39 (7) The defendant committed the offense pursuant to an agreement  
40 that he either pay or be paid for the commission of the offense and the  
41 pecuniary incentive was beyond that inherent in the offense itself;

42 (8) The defendant committed the offense against a police or other  
43 law enforcement officer, correctional employee or fireman, acting in  
44 the performance of his duties while in uniform or exhibiting evidence  
45 of his authority; the defendant committed the offense because of the  
46 status of the victim as a public servant; or the defendant committed the

1 offense against a sports official, athletic coach or manager, acting in  
2 or immediately following the performance of his duties or because of  
3 the person's status as a sports official, coach or manager;

4 (9) The need for deterring the defendant and others from violating  
5 the law;

6 (10) The offense involved fraudulent or deceptive practices  
7 committed against any department or division of State government;

8 (11) The imposition of a fine, penalty or order of restitution  
9 without also imposing a term of imprisonment would be perceived by  
10 the defendant or others merely as part of the cost of doing business,  
11 or as an acceptable contingent business or operating expense  
12 associated with the initial decision to resort to unlawful practices;

13 (12) The defendant committed the offense against a person who he  
14 knew or should have known was 60 years of age or older, or disabled;

15 (13) The defendant, while in the course of committing or  
16 attempting to commit the crime, including the immediate flight  
17 therefrom, used or was in possession of a stolen motor vehicle;

18 (14) As the operator of a motor vehicle, the defendant knowingly  
19 left the scene of an accident which resulted in the death or serious  
20 bodily injury of another person.

21 b. In determining the appropriate sentence to be imposed on a  
22 person who has been convicted of an offense, the court may properly  
23 consider the following mitigating circumstances:

24 (1) The defendant's conduct neither caused nor threatened serious  
25 harm;

26 (2) The defendant did not contemplate that his conduct would  
27 cause or threaten serious harm;

28 (3) The defendant acted under a strong provocation;

29 (4) There were substantial grounds tending to excuse or justify the  
30 defendant's conduct, though failing to establish a defense;

31 (5) The victim of the defendant's conduct induced or facilitated its  
32 commission;

33 (6) The defendant has compensated or will compensate the victim  
34 of his conduct for the damage or injury that he sustained, or will  
35 participate in a program of community service;

36 (7) The defendant has no history of prior delinquency or criminal  
37 activity or has led a law-abiding life for a substantial period of time  
38 before the commission of the present offense;

39 (8) The defendant's conduct was the result of circumstances  
40 unlikely to recur;

41 (9) The character and attitude of the defendant indicate that he is  
42 unlikely to commit another offense;

43 (10) The defendant is particularly likely to respond affirmatively to  
44 probationary treatment;

45 (11) The imprisonment of the defendant would entail excessive  
46 hardship to himself or his dependents;



1 (12) The willingness of the defendant to cooperate with law  
2 enforcement authorities;

3 (13) The conduct of a youthful defendant was substantially  
4 influenced by another person more mature than the defendant.

5 c. (1) A plea of guilty by a defendant or failure to so plead shall not  
6 be considered in withholding or imposing a sentence of imprisonment.

7 (2) When imposing a sentence of imprisonment the court shall  
8 consider the defendant's eligibility for release under the law governing  
9 parole, including time credits awarded pursuant to Title 30 of the  
10 Revised Statutes, in determining the appropriate term of imprisonment.

11 d. Presumption of imprisonment. The court shall deal with a  
12 person who has been convicted of a crime of the first or second degree  
13 by imposing a sentence of imprisonment unless, having regard to the  
14 character and condition of the defendant, it is of the opinion that his  
15 imprisonment would be a serious injustice which overrides the need to  
16 deter such conduct by others. Notwithstanding the provisions of  
17 subsection e. of this section, the court shall deal with a person who has  
18 been convicted of theft of a motor vehicle or of the unlawful taking of  
19 a motor vehicle and who has previously been convicted of either  
20 offense by imposing a sentence of imprisonment unless, having regard  
21 to the character and condition of the defendant, it is of the opinion that  
22 his imprisonment would be a serious injustice which overrides the need  
23 to deter such conduct by others.

24 e. The court shall deal with a person convicted of an offense other  
25 than a crime of the first or second degree, who has not previously been  
26 convicted of an offense, without imposing sentence of imprisonment  
27 unless, having regard to the nature and circumstances of the offense  
28 and the history, character and condition of the defendant, it is of the  
29 opinion that his imprisonment is necessary for the protection of the  
30 public under the criteria set forth in subsection a., except that this  
31 subsection shall not apply if the person is convicted of any of the  
32 following crimes of the third degree: theft of a motor vehicle; unlawful  
33 taking of a motor vehicle; or eluding; or if the person is convicted of  
34 a crime of the third or fourth degree constituting bias intimidation in  
35 violation of N.J.S.2C:16-1; or if the person is convicted of a crime of  
36 the third or fourth degree under the provisions of section 1 or 2 of  
37 P.L.1997, c.111 (C.2C:11-5.1 and 2C:12-1.1).

38 f. Presumptive Sentences. (1) Except for the crime of murder,  
39 unless the preponderance of aggravating or mitigating factors, as set  
40 forth in subsections a. and b., weighs in favor of a higher or lower  
41 term within the limits provided in N.J.S.2C:43-6, when a court  
42 determines that a sentence of imprisonment is warranted, it shall  
43 impose sentence as follows:

44 (a) To a term of 20 years for aggravated manslaughter or  
45 kidnapping pursuant to paragraph (1) of subsection c. of  
46 N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

47 (b) Except as provided in paragraph (a) of this subsection to a term

1 of 15 years for a crime of the first degree;

2 (c) To a term of seven years for a crime of the second degree;

3 (d) To a term of four years for a crime of the third degree; and

4 (e) To a term of nine months for a crime of the fourth degree.

5 In imposing a minimum term pursuant to 2C:43-6b., the sentencing  
6 court shall specifically place on the record the aggravating factors set  
7 forth in this section which justify the imposition of a minimum term.

8 Unless the preponderance of mitigating factors set forth in  
9 subsection b. weighs in favor of a lower term within the limits  
10 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a  
11 presumptive term of life imprisonment. Unless the preponderance of  
12 aggravating and mitigating factors set forth in subsections a. and b.  
13 weighs in favor of a higher or lower term within the limits authorized,  
14 sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive  
15 term of 50 years' imprisonment; sentences imposed pursuant to  
16 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment;  
17 and sentences imposed pursuant to 2C:43-7a.(4) shall have a  
18 presumptive term of seven years' imprisonment.

19 In imposing a minimum term pursuant to 2C:43-7b., the sentencing  
20 court shall specifically place on the record the aggravating factors set  
21 forth in this section which justify the imposition of a minimum term.

22 (2) In cases of convictions for crimes of the first or second degree  
23 where the court is clearly convinced that the mitigating factors  
24 substantially outweigh the aggravating factors and where the interest  
25 of justice demands, the court may sentence the defendant to a term  
26 appropriate to a crime of one degree lower than that of the crime for  
27 which he was convicted. If the court does impose sentence pursuant  
28 to this paragraph, or if the court imposes a noncustodial or  
29 probationary sentence upon conviction for a crime of the first or  
30 second degree, such sentence shall not become final for 10 days in  
31 order to permit the appeal of such sentence by the prosecution.

32 g. Imposition of Noncustodial Sentences in Certain Cases. If the  
33 court, in considering the aggravating factors set forth in subsection a.,  
34 finds the aggravating factor in paragraph a.(2) or a.(12) and does not  
35 impose a custodial sentence, the court shall specifically place on the  
36 record the mitigating factors which justify the imposition of a  
37 noncustodial sentence.

38 h. Except as provided in section 2 of P.L.1993, c.123  
39 (C.2C:43-11), the presumption of imprisonment as provided in  
40 subsection d. of this section shall not preclude the admission of a  
41 person to the Intensive Supervision Program, established pursuant to  
42 the Rules Governing the Courts of the State of New Jersey.

43 (cf: P.L.2001, c.443, s.7)

44

45 5. This act shall take effect the first day of the second month  
46 following enactment.

STATEMENT

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This bill upgrades the penalties for leaving the scene of a motor vehicle accident.

The fines for persons who are prosecuted for "hit and run" offenses under the motor vehicle code are increased. Currently, a person who knowing leaves the scene of an accident which involves a death or injury is subject to a fine of not less than \$500 or more than \$1,000 for a first offense and a fine of not less than \$1,000 or more than \$2,000 for a subsequent offense. This bill eliminates the two tiers and directs that the fine be not less than \$2,500 or more than \$5,000 for any offense. The bill does not change the other penalties set forth in the law. The court is still authorized to impose a 180 day term of imprisonment and the violator is subject to a mandatory drivers' license suspension.

For persons convicted of a "hit and run" offense under the State's Code of Criminal Justice, the bill eliminates the current presumption of nonimprisonment. Under the New Jersey Code of Criminal Justice (Title 2C), there is a presumption of nonimprisonment for persons convicted of crimes of the third and fourth degree. Since a "hit and run" accident which results in a death is a crime of the third degree and a "hit and run" accident which results in serious bodily injury is a crime of the fourth degree, persons convicted of these crimes are unlikely to be sentenced to terms of imprisonment.

This bill removes the presumption of nonimprisonment for persons convicted of "hit and run" crimes which result in the death or serious bodily injury of another. Consequently, persons convicted of these types of "hit and run" crimes may now be sent to prison.

Previous enactments have removed the presumption of nonimprisonment for persons convicted of motor vehicle theft, eluding and bias crimes.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2901**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 3, 2003

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2901.

Assembly Bill No. 2901, as amended and released by the committee, upgrades the penalties for leaving the scene of a motor vehicle accident.

Under the bill's provisions, the fines for persons who are prosecuted for "hit and run" offenses under the motor vehicle code are increased. Currently, a person who knowingly leaves the scene of an accident which involves a death or injury is subject to a fine of not less than \$500 or more than \$1,000 for a first offense, and a fine of not less than \$1,000 or more than \$2,000 for a subsequent offense. This bill eliminates the two tiers and directs that the fine be not less than \$2,500 or more than \$5,000 for any offense. The bill does not change the other penalties set forth in the law. The court is still authorized to impose a 180 day term of imprisonment and the violator is subject to a mandatory drivers' license suspension.

For persons convicted of a "hit and run" offense under the State's Code of Criminal Justice, the bill eliminates the current presumption of nonimprisonment. Under the New Jersey Code of Criminal Justice (Title 2C), there is a presumption of nonimprisonment for persons convicted of crimes of the third and fourth degree. Since a "hit and run" accident which results in a death is a crime of the third degree and a "hit and run" accident which results in serious bodily injury is a crime of the fourth degree, persons convicted of these crimes are unlikely to be sentenced to terms of imprisonment. This bill removes the presumption of nonimprisonment for persons convicted of "hit and run" crimes which result in the death or serious bodily injury of another. Consequently, persons convicted of these types of "hit and run" crimes may now be sent to prison.

Previous enactments have removed the presumption of nonimprisonment for persons convicted of motor vehicle theft, eluding and bias crimes.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision in the bill requiring the court, in imposing sentence, to consider the fact that a person knowingly left the scene of a motor vehicle accident involving death or serious bodily injury as an aggravating factor.

# SENATE, No. 1913

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2002

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Senator JOHN A. GIRGENTI**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Upgrades motor vehicle and criminal penalties for leaving the scene of an accident.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/10/2003)**

S1913 SWEENEY, GIRGENTI

2

1 AN ACT concerning certain motor vehicle accidents and amending  
2 R.S.39:4-129, P.L.1997, c.111 and N.J.S.2C:44-1.

3

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

6

7 1. R.S.39:4-129 is amended to read as follows:

8 39:4-129. (a) The driver of any vehicle, knowingly involved in an  
9 accident resulting in injury or death to any person shall immediately  
10 stop the vehicle at the scene of the accident or as close thereto as  
11 possible but shall then forthwith return to and in every event shall  
12 remain at the scene until he has fulfilled the requirements of subsection  
13 (c) of this section. Every such stop shall be made without obstructing  
14 traffic more than is necessary. Any person who shall violate this  
15 subsection shall be fined not less than [~~\$500~~] \$2,500 nor more than  
16 [~~\$1,000~~ or be imprisoned for a period of 180 days, or both, for the  
17 first offense, and for a subsequent offense shall be fined not less than  
18 \$1,000 nor more than ~~\$2,000~~] \$5,000, or be imprisoned for a period  
19 of 180 days, or both. The term of imprisonment required by this  
20 subsection shall be imposed only if the accident resulted in death or  
21 injury to a person other than the driver convicted of violating this  
22 section.

23 In addition, any person convicted under this subsection shall forfeit  
24 his right to operate a motor vehicle over the highways of this State for  
25 a period of one year from the date of his conviction for the first  
26 offense and for a subsequent offense shall thereafter permanently  
27 forfeit his right to operate a motor vehicle over the highways of this  
28 State.

29 (b) The driver of any vehicle knowingly involved in an accident  
30 resulting only in damage to a vehicle, including his own vehicle, or  
31 other property which is attended by any person shall immediately stop  
32 his vehicle at the scene of such accident or as close thereto as possible,  
33 but shall then forthwith return to and in every event shall remain at the  
34 scene of such accident until he has fulfilled the requirements of  
35 subsection (c) of this section. Every such stop shall be made without  
36 obstructing traffic more than is necessary. Any person who shall  
37 violate this subsection shall be fined not less than \$200 nor more than  
38 \$400, or be imprisoned for a period of not more than 30 days, or both,  
39 for the first offense, and for a subsequent offense, shall be fined not  
40 less than \$400 nor more than \$600, or be imprisoned for a period of  
41 not less than 30 days nor more than 90 days or both.

42 In addition, a person who violates this subsection shall, for a first  
43 offense, forfeit the right to operate a motor vehicle in this State for a

**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.**

1 period of six months from the date of conviction, and for a period of  
2 one year from the date of conviction for any subsequent offense.

3 (c) The driver of any vehicle knowingly involved in an accident  
4 resulting in injury or death to any person or damage to any vehicle or  
5 property shall give his name and address and exhibit his operator's  
6 license and registration certificate of his vehicle to the person injured  
7 or whose vehicle or property was damaged and to any police officer  
8 or witness of the accident, and to the driver or occupants of the  
9 vehicle collided with and render to a person injured in the accident  
10 reasonable assistance, including the carrying of that person to a  
11 hospital or a physician for medical or surgical treatment, if it is  
12 apparent that the treatment is necessary or is requested by the injured  
13 person.

14 In the event that none of the persons specified are in condition to  
15 receive the information to which they otherwise would be entitled  
16 under this subsection, and no police officer is present, the driver of any  
17 vehicle involved in such accident after fulfilling all other requirements  
18 of subsections (a) and (b) of this section, insofar as possible on his part  
19 to be performed, shall forthwith report such accident to the nearest  
20 office of the local police department or of the county police of the  
21 county or of the State Police and submit thereto the information  
22 specified in this subsection.

23 (d) The driver of any vehicle which knowingly collides with or is  
24 knowingly involved in an accident with any vehicle or other property  
25 which is unattended resulting in any damage to such vehicle or other  
26 property shall immediately stop and shall then and there locate and  
27 notify the operator or owner of such vehicle or other property of the  
28 name and address of the driver and owner of the vehicle striking the  
29 unattended vehicle or other property or, in the event an unattended  
30 vehicle is struck and the driver or owner thereof cannot be  
31 immediately located, shall attach securely in a conspicuous place in or  
32 on such vehicle a written notice giving the name and address of the  
33 driver and owner of the vehicle doing the striking or, in the event  
34 other property is struck and the owner thereof cannot be immediately  
35 located, shall notify the nearest office of the local police department  
36 or of the county police of the county or of the State Police and in  
37 addition shall notify the owner of the property as soon as the owner  
38 can be identified and located. Any person who violates this subsection  
39 shall be punished as provided in subsection (b) of this section.

40 (e) The driver of any motor vehicle involved in an accident  
41 resulting in injury or death to any person or damage in the amount of  
42 \$250.00 or more to any vehicle or property shall be presumed to have  
43 knowledge that he was involved in such accident, and such  
44 presumption shall be rebuttable in nature.

45 For purposes of this section, it shall not be a defense that the  
46 operator of the motor vehicle was unaware of the existence or extent



1 of personal injury or property damage caused by the accident as long  
2 as the operator was aware that he was involved in an accident.  
3 (cf: P.L.1994, c.183, s.1)

4  
5 2. Section 1 of P.L.1997, c.111 (C.2C:11-5.1) is amended to read  
6 as follows:

7 1. A motor vehicle operator who knows he is involved in an  
8 accident and knowingly leaves the scene of that accident under  
9 circumstances that violate the provisions of R.S. 39:4-129 shall be  
10 guilty of a crime of the third degree if the accident results in the death  
11 of another person. The presumption of nonimprisonment set forth in  
12 N.J.S.2C:44-1 shall not apply to persons convicted under the  
13 provisions of this section.

14 If the evidence so warrants, nothing in this section shall be deemed  
15 to preclude an indictment and conviction for aggravated manslaughter  
16 under the provisions of N.J.S.2C:11-4 or vehicular homicide under the  
17 provisions of N.J.S.2C:11-5.

18 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
19 provisions of law, a conviction arising under this section shall not  
20 merge with a conviction for aggravated manslaughter under the  
21 provisions of N.J.S.2C:11-4 or for vehicular homicide under the  
22 provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed  
23 upon each such conviction.

24 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
25 provisions of law, when the court imposes multiple sentences of  
26 imprisonment for more than one offense, those sentences shall run  
27 consecutively.

28 For the purposes of this section, neither knowledge of the death nor  
29 knowledge of the violation are elements of the offense and it shall not  
30 be a defense that the operator of the motor vehicle was unaware of the  
31 death or of the provisions of R.S.39:4-129.

32 (cf: P.L.1997, c.111, s.1)

33

34 3. Section 2 of P.L.1997, c.111 (C.2C:12-1.1) is amended to read  
35 as follows:

36 2. A motor vehicle operator who knows he is involved in an  
37 accident and knowingly leaves the scene of that accident under  
38 circumstances that violate the provisions of R.S.39:4-129 shall be  
39 guilty of a crime of the fourth degree if the accident results in serious  
40 bodily injury to another person. The presumption of nonimprisonment  
41 set forth in N.J.S.2C:44-1 shall not apply to persons convicted under  
42 the provisions of this section.

43 If the evidence so warrants, nothing in this section shall be deemed  
44 to preclude an indictment and conviction for aggravated assault or  
45 assault by auto under the provisions of N.J.S.2C:12-1.

1 Notwithstanding the provisions of N.J.S.2C:1-8 or any other  
2 provisions of law, a conviction arising under this section shall not  
3 merge with a conviction for aggravated assault or assault by auto  
4 under the provisions of N.J.S.2C:12-1 and a separate sentence shall be  
5 imposed upon each conviction.

6 Notwithstanding the provisions of N.J.S.2C:44-5 or any other  
7 provisions of law, whenever in the case of such multiple convictions  
8 the court imposes multiple sentences of imprisonment for more than  
9 one offense, those sentences shall run consecutively.

10 For the purposes of this section, neither knowledge of the serious  
11 bodily injury nor knowledge of the violation are elements of the  
12 offense and it shall not be a defense that the driver of the motor  
13 vehicle was unaware of the serious bodily injury or provisions of  
14 R.S.39:4-129.

15 (cf: P.L.1997, c.111, s.2)

16

17 4. N.J.S.2C:44-1 is amended to read as follows:

18 2C:44-1. Criteria for Withholding or Imposing Sentence of  
19 Imprisonment. a. In determining the appropriate sentence to be  
20 imposed on a person who has been convicted of an offense, the court  
21 shall consider the following aggravating circumstances:

22 (1) The nature and circumstances of the offense, and the role of the  
23 actor therein, including whether or not it was committed in an  
24 especially heinous, cruel, or depraved manner;

25 (2) The gravity and seriousness of harm inflicted on the victim,  
26 including whether or not the defendant knew or reasonably should  
27 have known that the victim of the offense was particularly vulnerable  
28 or incapable of resistance due to advanced age, ill-health, or extreme  
29 youth, or was for any other reason substantially incapable of exercising  
30 normal physical or mental power of resistance;

31 (3) The risk that the defendant will commit another offense;

32 (4) A lesser sentence will depreciate the seriousness of the  
33 defendant's offense because it involved a breach of the public trust  
34 under chapters 27 and 30, or the defendant took advantage of a  
35 position of trust or confidence to commit the offense;

36 (5) There is a substantial likelihood that the defendant is involved  
37 in organized criminal activity;

38 (6) The extent of the defendant's prior criminal record and the  
39 seriousness of the offenses of which he has been convicted;

40 (7) The defendant committed the offense pursuant to an agreement  
41 that he either pay or be paid for the commission of the offense and the  
42 pecuniary incentive was beyond that inherent in the offense itself;

43 (8) The defendant committed the offense against a police or other  
44 law enforcement officer, correctional employee or fireman, acting in  
45 the performance of his duties while in uniform or exhibiting evidence  
46 of his authority; the defendant committed the offense because of the

1 status of the victim as a public servant; or the defendant committed the  
2 offense against a sports official, athletic coach or manager, acting in  
3 or immediately following the performance of his duties or because of  
4 the person's status as a sports official, coach or manager;

5 (9) The need for deterring the defendant and others from violating  
6 the law;

7 (10) The offense involved fraudulent or deceptive practices  
8 committed against any department or division of State government;

9 (11) The imposition of a fine, penalty or order of restitution  
10 without also imposing a term of imprisonment would be perceived by  
11 the defendant or others merely as part of the cost of doing business,  
12 or as an acceptable contingent business or operating expense  
13 associated with the initial decision to resort to unlawful practices;

14 (12) The defendant committed the offense against a person who he  
15 knew or should have known was 60 years of age or older, or disabled;

16 (13) The defendant, while in the course of committing or  
17 attempting to commit the crime, including the immediate flight  
18 therefrom, used or was in possession of a stolen motor vehicle;

19 (14) As the operator of a motor vehicle, the defendant knowingly  
20 left the scene of an accident which resulted in the death or serious  
21 bodily injury of another person.

22 b. In determining the appropriate sentence to be imposed on a  
23 person who has been convicted of an offense, the court may properly  
24 consider the following mitigating circumstances:

25 (1) The defendant's conduct neither caused nor threatened serious  
26 harm;

27 (2) The defendant did not contemplate that his conduct would  
28 cause or threaten serious harm;

29 (3) The defendant acted under a strong provocation;

30 (4) There were substantial grounds tending to excuse or justify the  
31 defendant's conduct, though failing to establish a defense;

32 (5) The victim of the defendant's conduct induced or facilitated its  
33 commission;

34 (6) The defendant has compensated or will compensate the victim  
35 of his conduct for the damage or injury that he sustained, or will  
36 participate in a program of community service;

37 (7) The defendant has no history of prior delinquency or criminal  
38 activity or has led a law-abiding life for a substantial period of time  
39 before the commission of the present offense;

40 (8) The defendant's conduct was the result of circumstances  
41 unlikely to recur;

42 (9) The character and attitude of the defendant indicate that he is  
43 unlikely to commit another offense;

44 (10) The defendant is particularly likely to respond affirmatively to  
45 probationary treatment;

1 (11) The imprisonment of the defendant would entail excessive  
2 hardship to himself or his dependents;

3 (12) The willingness of the defendant to cooperate with law  
4 enforcement authorities;

5 (13) The conduct of a youthful defendant was substantially  
6 influenced by another person more mature than the defendant.

7 c. (1) A plea of guilty by a defendant or failure to so plead shall not  
8 be considered in withholding or imposing a sentence of imprisonment.

9 (2) When imposing a sentence of imprisonment the court shall  
10 consider the defendant's eligibility for release under the law governing  
11 parole, including time credits awarded pursuant to Title 30 of the  
12 Revised Statutes, in determining the appropriate term of imprisonment.

13 d. Presumption of imprisonment. The court shall deal with a  
14 person who has been convicted of a crime of the first or second degree  
15 by imposing a sentence of imprisonment unless, having regard to the  
16 character and condition of the defendant, it is of the opinion that his  
17 imprisonment would be a serious injustice which overrides the need to  
18 deter such conduct by others. Notwithstanding the provisions of  
19 subsection e. of this section, the court shall deal with a person who has  
20 been convicted of theft of a motor vehicle or of the unlawful taking of  
21 a motor vehicle and who has previously been convicted of either  
22 offense by imposing a sentence of imprisonment unless, having regard  
23 to the character and condition of the defendant, it is of the opinion that  
24 his imprisonment would be a serious injustice which overrides the need  
25 to deter such conduct by others.

26 e. The court shall deal with a person convicted of an offense other  
27 than a crime of the first or second degree, who has not previously been  
28 convicted of an offense, without imposing sentence of imprisonment  
29 unless, having regard to the nature and circumstances of the offense  
30 and the history, character and condition of the defendant, it is of the  
31 opinion that his imprisonment is necessary for the protection of the  
32 public under the criteria set forth in subsection a., except that this  
33 subsection shall not apply if the person is convicted of any of the  
34 following crimes of the third degree: theft of a motor vehicle; unlawful  
35 taking of a motor vehicle; or eluding; or if the person is convicted of  
36 a crime of the third or fourth degree constituting bias intimidation in  
37 violation of N.J.S.2C:16-1; or if the person is convicted of a crime of  
38 the third or fourth degree under the provisions of section 1 or 2 of  
39 P.L.1997, c.111 (C.2C:11-5.1 and 2C:12-1.1).

40 f. Presumptive Sentences. (1) Except for the crime of murder,  
41 unless the preponderance of aggravating or mitigating factors, as set  
42 forth in subsections a. and b., weighs in favor of a higher or lower  
43 term within the limits provided in N.J.S.2C:43-6, when a court  
44 determines that a sentence of imprisonment is warranted, it shall  
45 impose sentence as follows:

1 (a) To a term of 20 years for aggravated manslaughter or  
2 kidnapping pursuant to paragraph (1) of subsection c. of  
3 N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

4 (b) Except as provided in paragraph (a) of this subsection to a term  
5 of 15 years for a crime of the first degree;

6 (c) To a term of seven years for a crime of the second degree;

7 (d) To a term of four years for a crime of the third degree; and

8 (e) To a term of nine months for a crime of the fourth degree.

9 In imposing a minimum term pursuant to 2C:43-6b., the sentencing  
10 court shall specifically place on the record the aggravating factors set  
11 forth in this section which justify the imposition of a minimum term.

12 Unless the preponderance of mitigating factors set forth in  
13 subsection b. weighs in favor of a lower term within the limits  
14 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a  
15 presumptive term of life imprisonment. Unless the preponderance of  
16 aggravating and mitigating factors set forth in subsections a. and b.  
17 weighs in favor of a higher or lower term within the limits authorized,  
18 sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive  
19 term of 50 years' imprisonment; sentences imposed pursuant to  
20 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment;  
21 and sentences imposed pursuant to 2C:43-7a.(4) shall have a  
22 presumptive term of seven years' imprisonment.

23 In imposing a minimum term pursuant to 2C:43-7b., the sentencing  
24 court shall specifically place on the record the aggravating factors set  
25 forth in this section which justify the imposition of a minimum term.

26 (2) In cases of convictions for crimes of the first or second degree  
27 where the court is clearly convinced that the mitigating factors  
28 substantially outweigh the aggravating factors and where the interest  
29 of justice demands, the court may sentence the defendant to a term  
30 appropriate to a crime of one degree lower than that of the crime for  
31 which he was convicted. If the court does impose sentence pursuant  
32 to this paragraph, or if the court imposes a noncustodial or  
33 probationary sentence upon conviction for a crime of the first or  
34 second degree, such sentence shall not become final for 10 days in  
35 order to permit the appeal of such sentence by the prosecution.

36 g. Imposition of Noncustodial Sentences in Certain Cases. If the  
37 court, in considering the aggravating factors set forth in subsection a.,  
38 finds the aggravating factor in paragraph a.(2) or a.(12) and does not  
39 impose a custodial sentence, the court shall specifically place on the  
40 record the mitigating factors which justify the imposition of a  
41 noncustodial sentence.

42 h. Except as provided in section 2 of P.L.1993, c.123  
43 (C.2C:43-11), the presumption of imprisonment as provided in  
44 subsection d. of this section shall not preclude the admission of a  
45 person to the Intensive Supervision Program, established pursuant to  
46 the Rules Governing the Courts of the State of New Jersey.

47 (cf: P.L.2001, c.443, s.7)

1       5. This act shall take effect the first day of the second month  
2 following enactment.

3

4

STATEMENT

5

6       This bill upgrades the penalties for leaving the scene of a motor  
7 vehicle accident.

8

9       The fines for persons who are prosecuted for "hit and run" offenses  
10 under the motor vehicle code are increased. Currently, a person who  
11 knowing leaves the scene of an accident which involves a death or  
12 injury is subject to a fine of not less than \$500 or more than \$1,000 for  
13 a first offense and a fine of not less than \$1,000 or more than \$2,000  
14 for a subsequent offense. This bill eliminates the two tiers and directs  
15 that the fine be not less than \$2,500 or more than \$5,000 for any  
16 offense. The bill does not change the other penalties set forth in the  
17 law. The court is still authorized to impose a 180 day term of  
18 imprisonment and the violator is subject to a mandatory drivers' license  
19 suspension.

20       For persons convicted of a "hit and run" offense under the State's  
21 Code of Criminal Justice, the bill eliminates the current presumption  
22 of nonimprisonment. Under the New Jersey Code of Criminal Justice  
23 (Title 2C), there is a presumption of nonimprisonment for persons  
24 convicted of crimes of the third and fourth degree. Since a "hit and  
25 run" accident which results in a death is a crime of the third degree and  
26 a "hit and run" accident which results in serious bodily injury is a crime  
27 of the fourth degree, persons convicted of these crimes are unlikely to  
28 be sentenced to terms of imprisonment.

29       This bill removes the presumption of nonimprisonment for person  
30 convicted of "hit and run" crimes which result in the death or serious  
31 bodily injury of another. Consequently, persons convicted of these  
32 types of "hit and run" crimes may now be sent to prison.

33       Previous enactments have removed the presumption of  
34 nonimprisonment for persons convicted of motor vehicle theft, eluding  
and bias crimes.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 1913**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 9, 2003

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably and with committee amendments Senate Bill No. 1913.

This bill upgrades the penalties for leaving the scene of a motor vehicle accident.

Under the bill's provisions, the fines for persons who are prosecuted for "hit and run" offenses under the motor vehicle code are increased. Currently, a person who knowingly leaves the scene of an accident which involves a death or injury is subject to a fine of not less than \$500 or more than \$1,000 for a first offense, and a fine of not less than \$1,000 or more than \$2,000 for a subsequent offense. This bill eliminates the two tiers and directs that the fine be not less than \$2,500 or more than \$5,000 for any offense. The bill does not change the other penalties set forth in the law. The court is still authorized to impose a 180 day term of imprisonment and the violator is subject to a mandatory drivers' license suspension.

For persons convicted of a "hit and run" offense under the State's Code of Criminal Justice, the bill eliminates the current presumption of nonimprisonment. Under the New Jersey Code of Criminal Justice (Title 2C), there is a presumption of nonimprisonment for persons convicted of crimes of the third and fourth degree. Since a "hit and run" accident which results in a death is a crime of the third degree and a "hit and run" accident which results in serious bodily injury is a crime of the fourth degree, persons convicted of these crimes are unlikely to be sentenced to terms of imprisonment. This bill removes the presumption of nonimprisonment for persons convicted of "hit and run" crimes which result in the death or serious bodily injury of another. Consequently, persons convicted of these types of "hit and run" crimes may now be sent to prison.

Previous enactments have removed the presumption of nonimprisonment for persons convicted of motor vehicle theft, eluding and bias crimes.

The committee amendments remove a provision in the bill requiring the court, in imposing sentence, to consider the fact that a person knowingly left the scene of a motor vehicle accident involving death or serious bodily injury as a aggravating factor.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 1913

### STATE OF NEW JERSEY

### 210th LEGISLATURE

DATED: JUNE 26, 2003

#### SUMMARY

**Synopsis:** Upgrades motor vehicle and criminal penalties for leaving the scene of an accident

**Type of Impact:** General fund expenditure and revenue, Local government revenue

**Agencies Affected:** Department of Corrections, Local government

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Unknown	Unknown	Unknown
<b>State and Local Revenue</b>	\$185,000	\$185,000	\$185,000

- ! The bill upgrades the penalties for leaving the scene of a motor vehicle accident which involves a death or injury from a fine of not less than \$500 or more than \$1,000 for a first offense, and a fine of not less than \$1,000 or more than \$2,000 for a subsequent offense to a fine of not less than \$2,500 or more than \$5,000 for any offense.
- ! This bill also removes the presumption of nonimprisonment for persons convicted of "hit and run" crimes which result in the death or serious bodily injury of another.
- ! Data provided by the Administrative Office of the Courts (AOC) indicates that there are about 60 convictions for first time offenders and 4 convictions for subsequent offenders each year.
- ! The Office of Legislative Services (OLS) notes that based on 60 first time offender convictions and 4 subsequent offender convictions, and assuming fines are collected at the midpoint of the range, State and local governments would increase collections by about \$185,000 depending upon whether the summons was written by a State or local law enforcement officer.
- ! The OLS also notes that because the bill removes the presumption of nonincarceration for first time offenders under the criminal code, some of these individuals may be sent to prison. The cost to the State of housing a State sentenced prison inmate is \$26,000 per year for the duration of that offender's incarceration.

## **BILL DESCRIPTION**

Senate Bill No. 1913 (1R) of 2002 upgrades the penalties for leaving the scene of a motor vehicle accident. Under the bill's provisions, the fines for persons who are prosecuted for "hit and run" offenses under the motor vehicle code are increased. Currently, a person who knowingly leaves the scene of an accident which involves a death or injury is subject to a fine of not less than \$500 or more than \$1,000 for a first offense, and a fine of not less than \$1,000 or more than \$2,000 for a subsequent offense. This bill eliminates the two tiers and directs that the fine be not less than \$2,500 or more than \$5,000 for any offense. The bill does not change the other penalties set forth in the law. The court is still authorized to impose a 180 day term of imprisonment and the violator is subject to a mandatory drivers' license suspension.

For persons convicted of a "hit and run" offense under the State's Code of Criminal Justice, the bill eliminates the current presumption of nonimprisonment. Under the New Jersey Code of Criminal Justice (Title 2C), there is a presumption of nonimprisonment for first time offenders convicted of crimes of the third and fourth degree. The penalty for a third degree crime is a fine of up to \$15,000 and a term of imprisonment of up to 3-5 years, or both. Fourth degree crimes carry a penalty of a fine of up to \$10,000 and a term or imprisonment of up to 18 months or both.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

Data provided by the Administrative Office of the Courts (AOC) indicates that there would be about 60 convictions for first time offenders and 4 convictions for subsequent offenders each year.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) notes that based on 60 first time offender convictions and 4 subsequent offender convictions, and assuming fines are collected at the midpoint of the range, State and local governments would increase collections by about \$185,000 depending upon whether the summons was written by a State or local law enforcement officer.

The OLS also notes that because the bill removes the presumption of nonincarceration for first time offenders under the criminal code, some of these individuals may be sent to prison. The cost to the State of housing a State sentenced prison inmate is \$26,000 per year for the duration of that offender's incarceration.

Section: *Judiciary*

Analyst: *Anne C. Raughley*  
*Lead Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.