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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Law aims at sleepy drivers who kill," 8-6-2003 Philadelphia Inquirer, pB1.

"Wake up call' for drowsy drivers, 8-6-2003 The Record, pA3

"Stiff penalties for sleepy drivers," 8-6-2003 The Times, p.A9

"Drowsy drivers who kill face criminal charges," 8-6-2003 Home News Tribune, pA3

"New law a wake-up call for drowsy drivers," 8-6-2003 Star Ledger, p.16

P.L. 2003, CHAPTER 143, *approved August 5, 2003*  
Senate Bill No. 1644 (*Second Reprint*)  
(*Corrected Copy*)

1 AN ACT concerning vehicular homicide and amending N.J.S.2C:11-5.

2

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

5

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

7 2C:11-5. Death by auto or vessel.

8 a. Criminal homicide constitutes vehicular homicide when it is  
9 caused by driving a vehicle or vessel recklessly.

10 <sup>1</sup>[For the purposes of this section, driving a vehicle or vessel while  
11 knowingly fatigued shall constitute recklessness. "Fatigued" as used  
12 in this section means having been without sleep for a period in excess  
13 of 24 consecutive hours.] Proof that the defendant fell asleep while  
14 driving or was driving after having been without sleep for a period in  
15 excess of 24 consecutive hours<sup>2</sup> [, unless justified by salutary public  
16 purpose, shall] may<sup>2</sup> give rise to an inference that the defendant was  
17 driving recklessly. Proof that the defendant was driving while  
18 intoxicated in violation of R.S.39:4-50 or was operating a vessel  
19 under the influence of alcohol or drugs in violation of section 3 of  
20 P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the  
21 defendant was driving recklessly. Nothing in this section shall be  
22 construed to in any way limit the conduct or conditions that may be  
23 found to constitute driving a vehicle or vessel recklessly.<sup>1</sup>

24 b. Except as provided in paragraph (3) of this subsection, vehicular  
25 homicide is a crime of the second degree.

26 (1) If the defendant was operating the auto or vessel while under  
27 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
28 habit-producing drug, or with a blood alcohol concentration at or  
29 above the prohibited level as prescribed in R.S.39:4-50, or if the  
30 defendant was operating the auto or vessel while his driver's license or  
31 reciprocity privilege was suspended or revoked for any violation of  
32 R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
33 Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85  
34 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96,  
35 the defendant shall be sentenced to a term of imprisonment by the  
36 court. The term of imprisonment shall include the imposition of a  
37 minimum term. The minimum term shall be fixed at, or between,  
38 one-third and one-half of the sentence imposed by the court or three

**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.**

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

<sup>1</sup> Senate SJU committee amendments adopted October 28, 2002.

<sup>2</sup> Senate floor amendments adopted November 14, 2002.

1 years, whichever is greater, during which the defendant shall be  
2 ineligible for parole.

3 (2) The court shall not impose a mandatory sentence pursuant to  
4 paragraph (1) of this subsection unless the grounds therefor have been  
5 established at a hearing. At the hearing, which may occur at the time  
6 of sentencing, the prosecutor shall establish by a preponderance of the  
7 evidence that the defendant was operating the auto or vessel while  
8 under the influence of any intoxicating liquor, narcotic, hallucinogenic  
9 or habit-producing drug, or with a blood alcohol concentration at or  
10 above the level prescribed in R.S.39:4-50 or that the defendant was  
11 operating the auto or vessel while his driver's license or reciprocity  
12 privilege was suspended or revoked for any violation of R.S.39:4-50,  
13 section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the  
14 Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et  
15 seq.), or by the court for a violation of R.S.39:4-96. In making its  
16 findings, the court shall take judicial notice of any evidence, testimony  
17 or information adduced at the trial, plea hearing, or other court  
18 proceedings and shall also consider the presentence report and any  
19 other relevant information.

20 (3) Vehicular homicide is a crime of the first degree if the  
21 defendant was operating the auto or vessel while in violation of  
22 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

23 (a) on any school property used for school purposes which is  
24 owned by or leased to any elementary or secondary school or school  
25 board, or within 1,000 feet of such school property;

26 (b) driving through a school crossing as defined in R.S.39:1-1 if  
27 the municipality, by ordinance or resolution, has designated the school  
28 crossing as such; or

29 (c) driving through a school crossing as defined in R.S.39:1-1  
30 knowing that juveniles are present if the municipality has not  
31 designated the school crossing as such by ordinance or resolution.

32 A map or true copy of a map depicting the location and boundaries  
33 of the area on or within 1,000 feet of any property used for school  
34 purposes which is owned by or leased to any elementary or secondary  
35 school or school board produced pursuant to section 1 of P.L.1987,  
36 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph  
37 (a) of this paragraph.

38 It shall be no defense to a prosecution for a violation of  
39 subparagraph (a) or (b) of this paragraph that the defendant was  
40 unaware that the prohibited conduct took place while on or within  
41 1,000 feet of any school property or while driving through a school  
42 crossing. Nor shall it be a defense to a prosecution under  
43 subparagraph (a) or (b) of this paragraph that no juveniles were  
44 present on the school property or crossing zone at the time of the  
45 offense or that the school was not in session.

46 (4) If the defendant was operating the auto or vessel in violation

1 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
2 defendant's license to operate a motor vehicle shall be suspended for  
3 a period of between five years and life, which period shall commence  
4 upon completion of any prison sentence imposed upon that person.

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

8 d. Nothing herein shall be deemed to preclude, if the evidence so  
9 warrants, an indictment and conviction for aggravated manslaughter  
10 under the provisions of subsection a. of N.J.S.2C:11-4.

11 As used in this section, "auto or vessel" means all means of  
12 conveyance propelled otherwise than by muscular power.

13 e. Any person who violates paragraph (3) of subsection b. of this  
14 section shall forfeit the auto or vessel used in the commission of the  
15 offense, unless the defendant can establish at a hearing, which may  
16 occur at the time of sentencing, by a preponderance of the evidence  
17 that such forfeiture would constitute a serious hardship to the family  
18 of the defendant that outweighs the need to deter such conduct by the  
19 defendant and others. In making its findings, the court shall take  
20 judicial notice of any evidence, testimony or information adduced at  
21 the trial, plea hearing, or other court proceedings and shall also  
22 consider the presentence report and any other relevant information.  
23 Forfeiture pursuant to this subsection shall be in addition to, and not  
24 in lieu of, civil forfeiture pursuant to chapter 64 of this title.

25 (cf: P.L.1999, c.185, s.1)

26

27 2. This act shall take effect immediately.

28

29

30

31

32 Establishes driving while fatigued as recklessness under vehicular  
33 homicide statute.

**SENATE, No. 1644**

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

INTRODUCED JUNE 13, 2002

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

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

**SYNOPSIS**

Establishes driving while fatigued as recklessness under vehicular homicide statute.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning vehicular homicide and amending N.J.S.2C:11-5.

2

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

5

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

7 2C:11-5. Death by auto or vessel.

8 a. Criminal homicide constitutes vehicular homicide when it is  
9 caused by driving a vehicle or vessel recklessly.

10 For the purposes of this section, driving a vehicle or vessel while  
11 knowingly fatigued shall constitute recklessness. "Fatigued" as used  
12 in this section means having been without sleep for a period in excess  
13 of 24 consecutive hours.

14 b. Except as provided in paragraph (3) of this subsection, vehicular  
15 homicide is a crime of the second degree.

16 (1) If the defendant was operating the auto or vessel while under  
17 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
18 habit-producing drug, or with a blood alcohol concentration at or  
19 above the prohibited level as prescribed in R.S.39:4-50, or if the  
20 defendant was operating the auto or vessel while his driver's license or  
21 reciprocity privilege was suspended or revoked for any violation of  
22 R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
23 Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85  
24 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96,  
25 the defendant shall be sentenced to a term of imprisonment by the  
26 court. The term of imprisonment shall include the imposition of a  
27 minimum term. The minimum term shall be fixed at, or between,  
28 one-third and one-half of the sentence imposed by the court or three  
29 years, whichever is greater, during which the defendant shall be  
30 ineligible for parole.

31 (2) The court shall not impose a mandatory sentence pursuant to  
32 paragraph (1) of this subsection unless the grounds therefor have been  
33 established at a hearing. At the hearing, which may occur at the time  
34 of sentencing, the prosecutor shall establish by a preponderance of the  
35 evidence that the defendant was operating the auto or vessel while  
36 under the influence of any intoxicating liquor, narcotic, hallucinogenic  
37 or habit-producing drug, or with a blood alcohol concentration at or  
38 above the level prescribed in R.S.39:4-50 or that the defendant was  
39 operating the auto or vessel while his driver's license or reciprocity  
40 privilege was suspended or revoked for any violation of R.S.39:4-50,  
41 section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the  
42 Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et  
43 seq.), or by the court for a violation of R.S.39:4-96. In making its

**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 findings, the court shall take judicial notice of any evidence, testimony  
2 or information adduced at the trial, plea hearing, or other court  
3 proceedings and shall also consider the presentence report and any  
4 other relevant information.

5 (3) Vehicular homicide is a crime of the first degree if the  
6 defendant was operating the auto or vessel while in violation of  
7 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

8 (a) on any school property used for school purposes which is  
9 owned by or leased to any elementary or secondary school or school  
10 board, or within 1,000 feet of such school property;

11 (b) driving through a school crossing as defined in R.S.39:1-1 if  
12 the municipality, by ordinance or resolution, has designated the school  
13 crossing as such; or

14 (c) driving through a school crossing as defined in R.S.39:1-1  
15 knowing that juveniles are present if the municipality has not  
16 designated the school crossing as such by ordinance or resolution.

17 A map or true copy of a map depicting the location and boundaries  
18 of the area on or within 1,000 feet of any property used for school  
19 purposes which is owned by or leased to any elementary or secondary  
20 school or school board produced pursuant to section 1 of P.L.1997,  
21 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph  
22 (a) of this paragraph.

23 It shall be no defense to a prosecution for a violation of  
24 subparagraph (a) or (b) of this paragraph that the defendant was  
25 unaware that the prohibited conduct took place while on or within  
26 1,000 feet of any school property or while driving through a school  
27 crossing. Nor shall it be a defense to a prosecution under  
28 subparagraph (a) or (b) of this paragraph that no juveniles were  
29 present on the school property or crossing zone at the time of the  
30 offense or that the school was not in session.

31 (4) If the defendant was operating the auto or vessel in violation  
32 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
33 defendant's license to operate a motor vehicle shall be suspended for  
34 a period of between five years and life, which period shall commence  
35 upon completion of any prison sentence imposed upon that person.

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

39 d. Nothing herein shall be deemed to preclude, if the evidence so  
40 warrants, an indictment and conviction for aggravated manslaughter  
41 under the provisions of subsection a. of N.J.S.2C:11-4.

42 As used in this section, "auto or vessel" means all means of  
43 conveyance propelled otherwise than by muscular power.

44 e. Any person who violates paragraph (3) of subsection b. of this  
45 section shall forfeit the auto or vessel used in the commission of the  
46 offense, unless the defendant can establish at a hearing, which may



1 occur at the time of sentencing, by a preponderance of the evidence  
2 that such forfeiture would constitute a serious hardship to the family  
3 of the defendant that outweighs the need to deter such conduct by the  
4 defendant and others. In making its findings, the court shall take  
5 judicial notice of any evidence, testimony or information adduced at  
6 the trial, plea hearing, or other court proceedings and shall also  
7 consider the presentence report and any other relevant information.  
8 Forfeiture pursuant to this subsection shall be in addition to, and not  
9 in lieu of, civil forfeiture pursuant to chapter 64 of this title.  
10 (cf: P.L.1999, c.185, s.1).

11

12 2. This act shall take effect immediately.

13

14

15

#### STATEMENT

16

17 This bill amends N.J.S.2C:11-5, the State's vehicular homicide  
18 statute, to establish that driving a vehicle or vessel while knowingly  
19 fatigued constitutes recklessness. A person commits vehicular  
20 homicide when he causes the death of another by driving a vehicle or  
21 vessel recklessly. Vehicular homicide may be a crime of the second or  
22 first degree.

23 The bill defines "fatigued" as being without sleep for a period in  
24 excess of 24 consecutive hours.

25 It is the sponsor's intent that this bill be known as "Maggie's Law."

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 1644**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 28, 2002

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1644.

This bill amends N.J.S.2C:11-5, the State's vehicular homicide statute. Vehicular homicide may be a crime of the second or first degree. As introduced, the bill established that driving a vehicle or vessel while knowingly fatigued constituted recklessness and the bill defined "fatigued" as being without sleep for a period in excess of 24 consecutive hours.

The committee amendments instead provide that proof that the defendant fell asleep while driving or that the defendant was driving after having been without sleep for a period in excess of 24 consecutive hours, unless justified by salutary public purpose, shall give rise to an inference that the defendant was driving recklessly. Illustrations of justified public purposes may include: emergency response workers responding to catastrophic events or their aftermath such as workers at Ground Zero; transportation personnel actively engaged in responding to transportation-related incidents including flooding, snow removal, traffic accidents and other events affecting mobility or public safety; and medical, fire or ambulance personnel responding to certain emergencies or calls for assistance. The committee amendments also provide tht proof that the defendant was driving while intoxicated in violation of R.S.39:4-50 or was operating a vessel under the influence of alcohol or drugs in violation of section 3 of P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the defendant was driving recklessly. The amendments state that nothing in this section shall be construed to in any way limit the conduct or conditions that may be found to constitute driving a vehicle or vessel recklessly.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 1644**

with Senate Floor Amendments  
(Proposed By Senator SWEENEY)

ADOPTED: NOVEMBER 14, 2002

Under the provisions of N.J.S.2C:11-5, criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle or vessel recklessly. As amended by the Senate Judiciary Committee, this bill had provided that proof that the defendant fell asleep while driving or that the defendant was driving after having been without sleep for a period in excess of 24 consecutive hours, unless justified by salutary public purpose, would give rise to an inference that the defendant was driving recklessly.

These floor amendments remove the language concerning "salutary public purpose." The floor amendments also change the word "shall" to "may" in the provision of the bill concerning the inference.

Thus, as amended, this portion of the bill provides that: "Proof that the defendant fell asleep while driving or was driving after having been without sleep for a period in excess of 24 consecutive hours may give rise to an inference that the defendant was driving recklessly."

# ASSEMBLY, No. 1347

## STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

**Sponsored by:**

**Assemblyman GEORGE F. GEIST**

**District 4 (Camden and Gloucester)**

**Assemblyman RICK MERKT**

**District 25 (Morris)**

**Co-Sponsored by:**

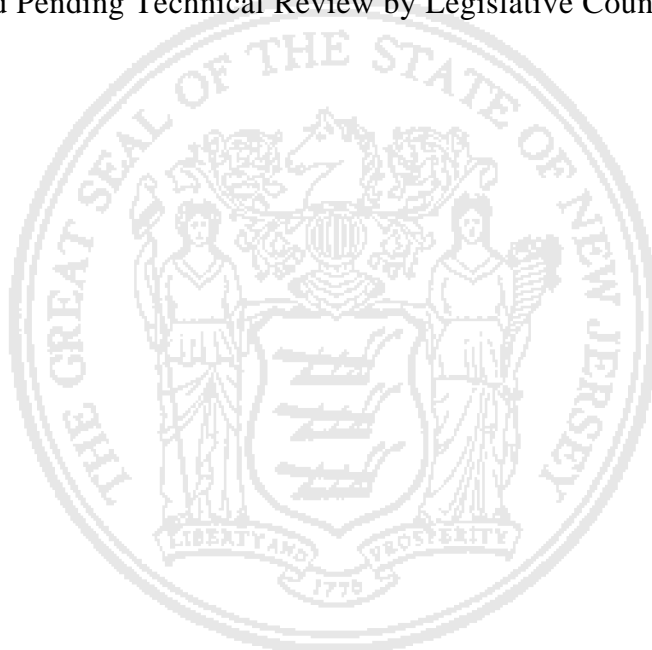
**Assemblyman R.Smith, Assemblywomen Greenstein and Heck**

**SYNOPSIS**

Establishes driving while fatigued as recklessness under vehicular homicide statute.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning vehicular homicide and amending N.J.S.2C:11-5.

2

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

5

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

7 2C:11-5. Death by auto or vessel.

8 a. Criminal homicide constitutes vehicular homicide when it is  
9 caused by driving a vehicle or vessel recklessly.

10 For the purposes of this section, driving a vehicle or vessel while  
11 knowingly fatigued shall constitute recklessness. "Fatigued" as used  
12 in this section means having been without sleep for a period in excess  
13 of 24 consecutive hours.

14 b. Except as provided in paragraph (3) of this subsection, vehicular  
15 homicide is a crime of the second degree.

16 (1) If the defendant was operating the auto or vessel while under  
17 the influence of any intoxicating liquor, narcotic, hallucinogenic or  
18 habit-producing drug, or with a blood alcohol concentration at or  
19 above the prohibited level as prescribed in R.S.39:4-50, or if the  
20 defendant was operating the auto or vessel while his driver's license or  
21 reciprocity privilege was suspended or revoked for any violation of  
22 R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the  
23 Director of the Division of Motor Vehicles pursuant to P.L.1982, c.85  
24 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96,  
25 the defendant shall be sentenced to a term of imprisonment by the  
26 court. The term of imprisonment shall include the imposition of a  
27 minimum term. The minimum term shall be fixed at, or between,  
28 one-third and one-half of the sentence imposed by the court or three  
29 years, whichever is greater, during which the defendant shall be  
30 ineligible for parole.

31 (2) The court shall not impose a mandatory sentence pursuant to  
32 paragraph (1) of this subsection unless the grounds therefor have been  
33 established at a hearing. At the hearing, which may occur at the time  
34 of sentencing, the prosecutor shall establish by a preponderance of the  
35 evidence that the defendant was operating the auto or vessel while  
36 under the influence of any intoxicating liquor, narcotic, hallucinogenic  
37 or habit-producing drug, or with a blood alcohol concentration at or  
38 above the level prescribed in R.S.39:4-50 or that the defendant was  
39 operating the auto or vessel while his driver's license or reciprocity  
40 privilege was suspended or revoked for any violation of R.S.39:4-50,  
41 section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the Director of the  
42 Division of Motor Vehicles pursuant to P.L.1982, c.85 (C.39:5-30a et  
43 seq.), or by the court for a violation of R.S.39:4-96. In making its

**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 findings, the court shall take judicial notice of any evidence, testimony  
2 or information adduced at the trial, plea hearing, or other court  
3 proceedings and shall also consider the presentence report and any  
4 other relevant information.

5 (3) Vehicular homicide is a crime of the first degree if the  
6 defendant was operating the auto or vessel while in violation of  
7 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

8 (a) on any school property used for school purposes which is  
9 owned by or leased to any elementary or secondary school or school  
10 board, or within 1,000 feet of such school property;

11 (b) driving through a school crossing as defined in R.S.39:1-1 if  
12 the municipality, by ordinance or resolution, has designated the school  
13 crossing as such; or

14 (c) driving through a school crossing as defined in R.S.39:1-1  
15 knowing that juveniles are present if the municipality has not  
16 designated the school crossing as such by ordinance or resolution.

17 A map or true copy of a map depicting the location and boundaries  
18 of the area on or within 1,000 feet of any property used for school  
19 purposes which is owned by or leased to any elementary or secondary  
20 school or school board produced pursuant to section 1 of P.L.1997,  
21 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph  
22 (a) of this paragraph.

23 It shall be no defense to a prosecution for a violation of  
24 subparagraph (a) or (b) of this paragraph that the defendant was  
25 unaware that the prohibited conduct took place while on or within  
26 1,000 feet of any school property or while driving through a school  
27 crossing. Nor shall it be a defense to a prosecution under  
28 subparagraph (a) or (b) of this paragraph that no juveniles were  
29 present on the school property or crossing zone at the time of the  
30 offense or that the school was not in session.

31 (4) If the defendant was operating the auto or vessel in violation  
32 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the  
33 defendant's license to operate a motor vehicle shall be suspended for  
34 a period of between five years and life, which period shall commence  
35 upon completion of any prison sentence imposed upon that person.

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

39 d. Nothing herein shall be deemed to preclude, if the evidence so  
40 warrants, an indictment and conviction for aggravated manslaughter  
41 under the provisions of subsection a. of N.J.S.2C:11-4.

42 As used in this section, "auto or vessel" means all means of  
43 conveyance propelled otherwise than by muscular power.

44 e. Any person who violates paragraph (3) of subsection b. of this  
45 section shall forfeit the auto or vessel used in the commission of the  
46 offense, unless the defendant can establish at a hearing, which may

1 occur at the time of sentencing, by a preponderance of the evidence  
2 that such forfeiture would constitute a serious hardship to the family  
3 of the defendant that outweighs the need to deter such conduct by the  
4 defendant and others. In making its findings, the court shall take  
5 judicial notice of any evidence, testimony or information adduced at  
6 the trial, plea hearing, or other court proceedings and shall also  
7 consider the presentence report and any other relevant information.  
8 Forfeiture pursuant to this subsection shall be in addition to, and not  
9 in lieu of, civil forfeiture pursuant to chapter 64 of this title.  
10 (cf: P.L.1999, c.185, s.1)

11

12 2. This act shall take effect immediately.

13

14

15

#### STATEMENT

16

17 This bill amends N.J.S.2C:11-5, the State's vehicular homicide  
18 statute, to establish that driving a vehicle or vessel while knowingly  
19 fatigued constitutes recklessness. A person commits vehicular  
20 homicide when he causes the death of another by driving a vehicle or  
21 vessel recklessly. Vehicular homicide may be a crime of the second or  
22 first degree.

23 The bill defines "fatigued" as being without sleep for a period in  
24 excess of 24 consecutive hours.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1347**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 9, 2002

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1347.

This bill amends N.J.S.2C:11-5, the State's vehicular homicide statute. Vehicular homicide may be a crime of the second or first degree. As introduced, the bill established that driving a vehicle or vessel while knowingly fatigued constituted recklessness and the bill defined "fatigued" as being without sleep for a period in excess of 24 consecutive hours.

The committee amendments provide that proof that the defendant fell asleep while driving or that the defendant was driving after having been without sleep for a period in excess of 24 consecutive hours shall give rise to an inference that the defendant was driving recklessly. The committee amendments also provide that proof that the defendant was driving while intoxicated in violation of R.S.39:4-50 or was operating a vessel under the influence of alcohol or drugs in violation of section 3 of P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the defendant was driving recklessly.

In addition, the amendments state that nothing in this section shall be construed to in any way limit the conduct or conditions that may be found to constitute driving a vehicle or vessel recklessly.

It is the committee's intent that this bill be known as "Maggie's Law."

This bill was prefiled for introduction in the 2002 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

#### COMMITTEE AMENDMENTS:

Committee amendments to the bill:

(1) Amend section 1 of the bill, which amends N.J.S. 2C:11-5, to provide that proof that the defendant fell asleep while driving or that the defendant was driving after having been without sleep for a period in excess of 24 consecutive hours shall give rise to an inference that the defendant was driving recklessly;

(2) Amend section 1 to provide that proof that the defendant was driving while intoxicated in violation of R.S.39:4-50 or was operating



a vessel under the influence of alcohol or drugs in violation of section 3 of P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the defendant was driving recklessly; and

(3) Amend section 1 to provide that nothing in this section shall be construed to in any way limit the conduct or conditions that may be found to constitute driving a vehicle or vessel recklessly.

# STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 1347**

with Assembly Floor Amendments  
(Proposed By Assemblyman BURZICHELLI)

ADOPTED: FEBRUARY 10, 2003

Under the provisions of N.J.S.2C:11-5, criminal homicide constitutes vehicular homicide when it is caused by driving a vehicle or vessel recklessly. As amended by the Assembly Judiciary Committee, this bill provides that proof that the defendant fell asleep while driving or that the defendant was driving after having been without sleep for a period in excess of 24 consecutive hours shall give rise to an inference that the defendant was driving recklessly.

These floor amendments change the word "shall" to "may" in the provision of the bill concerning the inference. Therefore, as amended, this portion of the bill provides that: "Proof that the defendant fell asleep while driving or was driving after having been without sleep for a period in excess of 24 consecutive hours may give rise to an inference that the defendant was driving recklessly."

These floor amendments make this bill identical to Senate Bill No.1644 (2R).

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**Press Releases**

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## **McGreevey Puts Maggie's Law on the Books**

### *New Law Addresses Issue of Sleep Deprived Drivers*

(THOROFARE-GLOUCESTER COUNTY)—As part of a series of efforts to keep families and their children safe, Governor James E. McGreevey today signed Senate Bill S-1644, which is known as “Maggie’s Law.”

Maggie’s Law imposes jail time and fines as much as \$150,000 for sleep deprived drivers who cause a fatal accident. The bill was drafted after 20 year-old Maggie McDonnell was killed by a driver who fell asleep behind the wheel in 1997.

“Today in the memory of Maggie McDonnell, we are closing the legal loophole that allowed sleep deprived drivers to take a life and get away with it,” McGreevey said. “At just 20 years old, Maggie was just beginning her life as an adult, when it was recklessly taken away from her and came to a screeching halt.”

The Governor was joined by members of the McDonnell family, including Maggie’s mother Carole who spoke on her daughter’s behalf.

“I can only imagine the shock and disgust of Maggie’s friends and family, when this man was cleared of vehicular manslaughter and slapped with a meaningless \$200 fine,” said McGreevey. “On that day, undeniably, justice was not served.”

Before the enactment of Maggie’s Law, driving while sleep fatigued was not considered reckless driving and therefore did not fall under the category of vehicular homicide. In Maggie McDonnell’s case, 48 year-old Michael Coleman was awake for over 30 hours and was given a fine of \$200.

In court Coleman admitted that he had fallen asleep at the wheel causing him to hit Maggie’s car head on. However, he argued that falling asleep at the wheel was not a crime and was acquitted of reckless driving and vehicular homicide.

“The bottom line of this bill is to educate and promote awareness of how dangerous it is to drive while knowingly fatigued,” said Senator Stephen M. Sweeney (D-Salem, Cumberland, Gloucester). "This day was made possible through the dedication and efforts of Maggie's mom, Carol McDonnell."

Research has shown that the effects of sleep deprivation are similar to those of alcohol. Sleeplessness increases attention lapses, while slowing reaction time and cognitive processing. The National Highway Traffic Safety Administration estimates at least 100,000 crashes, 71,000 injuries and 1,500 deaths each year in the United States are the result of drivers falling asleep.

Governor McGreevey has made it a top priority to protect children since taking office. New Jersey is now the first in the Nation to have such legislation.

***Photos and audio and video clips from Governor McGreevey's press conferences are available on the Governor's web page at <http://www.state.nj.us/governor/>. Links are located in the Governor's Newsroom section of the page.***



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