

**LEGISLATIVE HISTORY CHECKLIST**  
 Compiled by the NJ State Law Library

(Vehicular homicide--upgrade death  
 by auto)

**NJSA:** 2C:11-5

**LAWS OF:** 1995 **CHAPTER:** 285

**BILL NO:** A2903

**SPONSOR(S):** Bucco and others

**DATE INTRODUCED:** June 1, 1995

**COMMITTEE:** **ASSEMBLY** Judiciary

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
 First reprint enacted denoted by superscript  
 numbers

**DATE OF PASSAGE:** **ASSEMBLY:** November 30, 1995

**SENATE:** December 11, 1995

**DATE OF APPROVAL:** December 21, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes

**SENATE:** No

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clipping--attached:

"In death, a birthday 'gift' to save lives," 12-22-95, Star Ledger.

KBG:pp

**Legislative History Checklist**  
(Compiled by the Office of Legislative Services Library)

**Synopsis:** Establishes crime of vehicular homicide as a crime of the second degree.\*

**Bill No.:** A2903

**P.L.** 1995, c. 285

*Identical to:* S2095 (1R)  
*Substituted for:* S2095 (1R)  
*Combined with:*  
*Last Session Bill No.:*

*See Above Bill(s) for Additional History*

**NJSA:** 2C:11-5

**Sponsor(s):** Bucco/DeCroce+8

**Date Introduced:** 06/01/95

**Committee Reference:**

**Statement:**

**Public Hearing:**

**Assembly:**

Judiciary, Law and Public Safety

Yes

No

**Senate:**

(Without reference)

**Sponsor Statement:** Yes

**Fiscal Note:** No

**Dates of Passage:**

**Assembly:**

11/30/95 (74-0)

**Senate:**

12/11/95 (37-0)

**Amended During Passage:** Yes

**Governor's Action:**

**Veto:** No

**Date of Veto:**

**Date of Approval:** 12/21/95

**Message on Signing:** Yes

**Additional Information:**

P.L.1995, CHAPTER 285, approved December 21, 1995  
1995 Assembly No. 2903 (First Reprint)

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

2

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

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

6 2C:11-5. Death by auto or vessel. a. Criminal homicide  
7 constitutes <sup>1</sup>[death by auto or vessel] vehicular homicide<sup>1</sup> when it  
8 is caused by driving a vehicle or vessel recklessly.

9 b. <sup>1</sup>[Death by auto or vessel] Vehicular homicide<sup>1</sup> is a crime of  
10 the [third] second degree [and, notwithstanding the provisions of  
11 N.J.S.2C:43-2, the court may not suspend the imposition of  
12 sentence on any defendant convicted under this section, who was  
13 operating the auto or vessel under the influence of an  
14 intoxicating liquor, narcotic, hallucinogenic or habit-producing  
15 drug, or with a blood alcohol concentration of 0.10% or more by  
16 weight of alcohol in his blood and any sentence imposed under  
17 this section shall include either a fixed minimum term of 270  
18 days' imprisonment, during which the defendant shall be  
19 ineligible for parole, or a requirement that the defendant perform  
20 a community related service for a minimum of 270 days].

21 (1) If the defendant was operating the auto or vessel while  
22 under the influence of any intoxicating liquor, narcotic,  
23 hallucinogenic or habit-producing drug, or with a blood alcohol  
24 concentration at or above the prohibited level as prescribed in  
25 R.S.39:4-50, or if the defendant was operating the auto or vessel  
26 while his driver's license or reciprocity privilege was suspended  
27 or revoked for any violation of R.S.39:4-50, section 2 of  
28 P.L.1981, c.512 <sup>1</sup>[(C.39:4-50.41)] (C.39:4-50.4a)<sup>1</sup>, <sup>1</sup>[or]<sup>1</sup> by the  
29 Director of the Division of Motor Vehicles pursuant to  
30 <sup>1</sup>[P.L.1982, c.43 (C.39:5-30a et seq)] P.L.1982, c.85 (C.39:5-30a  
31 et seq.), or by the court for a violation of R.S.39:4-96<sup>1</sup>, the  
32 defendant shall be sentenced to a term of imprisonment by the  
33 court. The term of imprisonment shall include the imposition of  
34 a minimum term. The minimum term shall be fixed at, or  
35 between, one-third and one-half of the sentence imposed by the  
36 court or three years, whichever is greater, during which the  
37 defendant shall be ineligible for parole.

38 (2) The court shall not impose a mandatory sentence pursuant  
39 to paragraph (1) of this subsection unless the grounds therefor  
40 have been established at a hearing. At the hearing, which may  
41 occur at the time of sentencing, the prosecutor shall establish by

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:  
Assembly AJL committee amendments adopted November 9, 1995.

1 prescribed in R.S.39:4-50 or that the defendant was operating the  
2 auto or vessel while his driver's license or reciprocity privilege  
3 was suspended or revoked for any violation of R.S.39:4-50,  
4 section 2 of P.L.1981, c.512 (C.39:4-50.4a), or by the Director of  
5 the Division of Motor Vehicles pursuant to P.L.1982, c.43  
6 (C.39:5-30a et seq). In making its findings, the court shall take  
7 judicial notice of any evidence, testimony or information adduced  
8 at the trial, plea hearing, or other court proceedings and shall  
9 also consider the presentence report and any other relevant  
10 information.

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

14 d. Nothing herein shall be deemed to preclude, if the evidence  
15 so warrants, an indictment and conviction for aggravated  
16 manslaughter under the provisions of subsection a. of  
17 N.J.S.2C:11-4. [If an indictment for manslaughter is brought in a  
18 case involving the operation of a motor vehicle or vessel, death  
19 by auto or vessel shall be considered a lesser-included offense.]

20 As used in this section, "auto or vessel" means all means of  
21 conveyance propelled otherwise than by muscular power.  
22 (cf: P.L.1991, c.237, s.1)

23 2. This act shall take effect immediately and shall be  
24 applicable to offenses committed on or after the effective date.

#### 25 26 27 STATEMENT

28  
29 This bill elevates death by auto or vessel to a crime of the  
30 second-degree.

31 If the defendant was operating the vehicle or vessel (1) while  
32 under the influence of an intoxicating liquor or drug (a violation  
33 of R.S.39:4-50) or (2) while their license was suspended or  
34 revoked for drunk driving, failing to submit to a chemical test  
35 when arrested for drunk driving, or for accumulating too many  
36 motor vehicle penalty points, the bill requires the court to impose  
37 a mandatory minimum term of imprisonment. The minimum term  
38 is to be fixed at, or between, one-third and one-half of the  
39 sentence imposed by the court or three years, whichever is  
40 greater. During the minimum term, the defendant would be  
41 ineligible for parole.

42 The bill further provides, however, that the court would not  
43 impose such a mandatory sentence unless, at a hearing, the  
44 prosecution can establish by a preponderance of the evidence that  
45 the defendant was operating the vehicle or vessel while  
46 intoxicated or while their driver's license was suspended for a  
47 drunk driving conviction, a refusal to submit to a chemical test  
48 when arrested for drunk driving, or for accumulating too many  
49 motor vehicle penalty points.

50 Finally, the bill permits the prosecution, if the evidence so  
51 warrants, to seek an indictment and conviction for aggravated  
52 manslaughter. Aggravated manslaughter is a crime of the first  
53 degree.

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Elevates death by auto or vessel to a crime of the second degree.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2903**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 12, 1995

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2903.

In its original form the bill would have elevated death by auto or vessel from a crime of the third degree to a crime of the second-degree. The committee amendments retitle the offense of death by auto or vessel as vehicular homicide. Vehicular homicide would be graded as a crime of the second degree. A crime of the second degree is punishable by a term of imprisonment of five to ten years, a fine of up to \$100,000.00 or both.

The bill provides that if the defendant was operating the vehicle or vessel (1) while under the influence of an intoxicating liquor or drug or (2) while their license was suspended or revoked for drunk driving, for being a habitual offender or for a reckless driving offense, the court would impose a mandatory minimum term of imprisonment. The minimum term is to be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater. During the minimum term, the defendant would be ineligible for parole.

The bill further provides that the court would not impose such a mandatory sentence unless, at a hearing, the prosecution can establish by a preponderance of the evidence that the defendant was operating the vehicle or vessel while intoxicated or while their driver's license was suspended for a drunk driving conviction, a refusal to submit to a chemical test when arrested for drunk driving, or for accumulating too many motor vehicle penalty points.

The bill permits the prosecution, if the evidence so warrants, to seek an indictment and conviction for aggravated manslaughter. Aggravated manslaughter is a crime of the first degree.

The committee also amended the bill to correct several incorrect statutory references.

These amendments would make the bill identical to Senate Bill No. 2095 [1R].

These amendments make this bill identical to S-2095(1R).

Assembly AIL COMMITTEE

AMENDMENTS

to

Assembly, No. 2903

(Sponsored by Assemblymen Bucco and DeGroce)

ADOPTED

NOV - 9 1995

REPLACE SECTION 1 TO READ:

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

2C:11-5. Death by auto or vessel. a. Criminal homicide constitutes <sup>1</sup>[death by auto or vessel] vehicular homicide<sup>1</sup> when it is caused by driving a vehicle or vessel recklessly.

b. <sup>1</sup>[Death by auto or vessel] Vehicular homicide<sup>1</sup> is a crime of the [third] second degree [and, notwithstanding the provisions of N.J.S.2C:43-2, the court may not suspend the imposition of sentence on any defendant convicted under this section, who was operating the auto or vessel under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration of 0.10% or more by weight of alcohol in his blood and any sentence imposed under this section shall include either a fixed minimum term of 270 days' imprisonment, during which the defendant shall be ineligible for parole, or a requirement that the defendant perform a community related service for a minimum of 270 days].

(1) If the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the prohibited level as prescribed in R.S.39:4-50, or if the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 <sup>1</sup>[(C.39:4-50.41)] (C.39:4-50.4a)<sup>1</sup>, <sup>1</sup>[or]<sup>1</sup> by the Director of the Division of Motor Vehicles pursuant to <sup>1</sup>[P.L.1982, c.43 (C.39:5-30a et seq)] P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a violation of R.S.39:4-96<sup>1</sup>, the defendant shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, during which the defendant shall be ineligible for parole.

(2) The court shall not impose a mandatory sentence pursuant to paragraph (1) of this subsection unless the grounds therefor have been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the defendant was operating the auto or vessel while under the influence of any intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or with a blood alcohol concentration at or above the level prescribed in R.S.39:4-50 or that the defendant was operating the auto or vessel while his driver's license or reciprocity privilege was suspended or revoked for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), <sup>1</sup>[or]<sup>1</sup> by the Director of the Division of Motor Vehicles pursuant to <sup>1</sup>[P.L.1982, c.43 (C.39:5-30a et seq)] P.L. 1982, c.85 (C.39:5-30a et seq.)<sup>1</sup>, or by the court for a violation of R.S.39:4-96<sup>1</sup>. In making its findings, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

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

d. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for aggravated manslaughter under the provisions of subsection a. of N.J.S.2C:11-4. [If an indictment for manslaughter is brought in a case involving the operation of a motor vehicle or vessel, death by auto or vessel shall be considered a lesser-included offense.]

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

(cf: P.L.1991, c.237, s.1)

#### **REPLACE SYNOPSIS TO READ**

Establishes crime of vehicular homicide as a crime of the second degree.



[FIRST REPRINT]  
ASSEMBLY, No. 2903

STATE OF NEW JERSEY

INTRODUCED JUNE 1, 1995

By Assemblymen BUCCO, DeCROCE, Albohn, Asselta,  
Bagger, Blee, Connors, Gibson, Mikulak,  
Moran and Solomon

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

2

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

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

6 2C:11-5. Death by auto or vessel. a. Criminal homicide  
7 constitutes <sup>1</sup>[death by auto or vessel] vehicular homicide<sup>1</sup> when it  
8 is caused by driving a vehicle or vessel recklessly.

9 b. <sup>1</sup>[Death by auto or vessel] Vehicular homicide<sup>1</sup> is a crime of  
10 the [third] second degree [and, notwithstanding the provisions of  
11 N.J.S.2C:43-2, the court may not suspend the imposition of  
12 sentence on any defendant convicted under this section, who was  
13 operating the auto or vessel under the influence of an  
14 intoxicating liquor, narcotic, hallucinogenic or habit-producing  
15 drug, or with a blood alcohol concentration of 0.10% or more by  
16 weight of alcohol in his blood and any sentence imposed under  
17 this section shall include either a fixed minimum term of 270  
18 days' imprisonment, during which the defendant shall be  
19 ineligible for parole, or a requirement that the defendant perform  
20 a community related service for a minimum of 270 days].

21 (1) If the defendant was operating the auto or vessel while  
22 under the influence of any intoxicating liquor, narcotic,  
23 hallucinogenic or habit-producing drug, or with a blood alcohol  
24 concentration at or above the prohibited level as prescribed in  
25 R.S.39:4-50, or if the defendant was operating the auto or vessel  
26 while his driver's license or reciprocity privilege was suspended  
27 or revoked for any violation of R.S.39:4-50, section 2 of  
28 P.L.1981, c.512 <sup>1</sup>[(C.39:4-50.41)] (C.39:4-50.4a)<sup>1</sup>, <sup>1</sup>[or]<sup>1</sup> by the  
29 Director of the Division of Motor Vehicles pursuant to  
30 <sup>1</sup>[P.L.1982, c.43 (C.39:5-30a et seq)] P.L.1982, c.85 (C.39:5-30a  
31 et seq.), or by the court for a violation of R.S.39:4-96<sup>1</sup>, the  
32 defendant shall be sentenced to a term of imprisonment by the  
33 court. The term of imprisonment shall include the imposition of  
34 a minimum term. The minimum term shall be fixed at, or  
35 between, one-third and one-half of the sentence imposed by the  
36 court or three years, whichever is greater, during which the  
37 defendant shall be ineligible for parole.

38 (2) The court shall not impose a mandatory sentence pursuant  
39 to paragraph (1) of this subsection unless the grounds therefor  
40 have been established at a hearing. At the hearing, which may  
41 occur at the time of sentencing, the prosecutor shall establish by

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> Assembly AJL committee amendments adopted November 9, 1995.

1 a preponderance of the evidence that the defendant was  
2 operating the auto or vessel while under the influence of any  
3 intoxicating liquor, narcotic, hallucinogenic or habit-producing  
4 drug, or with a blood alcohol concentration at or above the level  
5 prescribed in R.S.39:4-50 or that the defendant was operating the  
6 auto or vessel while his driver's license or reciprocity privilege  
7 was suspended or revoked for any violation of R.S.39:4-50,  
8 section 2 of P.L.1981, c.512 (C.39:4-50.4a), <sup>1</sup>[or]<sup>1</sup> by the Director  
9 of the Division of Motor Vehicles pursuant to <sup>1</sup>[P.L.1982, c.43  
10 (C.39:5-30a et seq)] P.L.1982, c.85 (C.39:5-30a et seq.), or by the  
11 court for a violation of R.S.39:4-96<sup>1</sup>. In making its findings, the  
12 court shall take judicial notice of any evidence, testimony or  
13 information adduced at the trial, plea hearing, or other court  
14 proceedings and shall also consider the presentence report and  
15 any other relevant information.

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

19 d. Nothing herein shall be deemed to preclude, if the evidence  
20 so warrants, an indictment and conviction for aggravated  
21 manslaughter under the provisions of subsection a. of  
22 N.J.S.2C:11-4. [If an indictment for manslaughter is brought in a  
23 case involving the operation of a motor vehicle or vessel, death  
24 by auto or vessel shall be considered a lesser-included offense.]

25 As used in this section, "auto or vessel" means all means of  
26 conveyance propelled otherwise than by muscular power.  
27 (cf: P.L.1991, c.237, s.1)

28 2. This act shall take effect immediately and shall be  
29 applicable to offenses committed on or after the effective date.

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34 Establishes crime of vehicular homicide as a crime of the second  
35 degree.



## OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**

**CONTACT: Becky Taylor**  
**609-777-2600**

**TRENTON, NJ 08625**

**RELEASE: Dec. 21, 1995**

Gov. Christie Whitman today signed legislation which elevates the offense of death by motor vehicle to the crime of vehicular homicide in the second degree, if the defendant was driving under the influence of an intoxicating liquor or drugs while the person's license was suspended or revoked for drunk driving. Currently, it is a crime of the third degree.

The Governor also signed a second bill which will revoke the vehicle registration of person convicted of driving while suspended for a drunk driving offense and for second, and subsequent, driving while serving a suspended convictions.

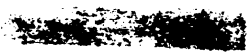
"I wholeheartedly feel it is intolerable for someone to cause the death of another human being while the driver is incapacitated by some form of stimulant. This legislation will go a long way in helping to reduce the incidents of death and injuries on the roads and highways of New Jersey," said Gov. Whitman.

The legislation, **A-2903/S-2095**, was sponsored by Assemblymen Anthony Bucco (R-Morris) and Alex DeCroce (R-Essex/Morris/Passaic). The substituted version in the Senate was sponsored by Senator Donald DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Senator Gordon MacInnes (D-Morris). **A-2929/S-2094**, was sponsored by Assemblymen Anthony Bucco (R-Morris) and Alex DeCroce (R-Essex/Morris/Passaic). The substituted version in the Senate was sponsored by Senators William Gormley (R-Atlantic) and Senator Gordon MacInnes (D-Morris).

Under bill **A-2903/S-2095**, if a defendant was operating a vehicle (1) while under the influence of an intoxicating liquor or drug; or (2) while his license was suspended or revoked for drunk driving, failing to submit to a chemical test when arrested for drunk driving, or for accumulating too many motor vehicle penalty points, a court must impose a mandatory minimum term of imprisonment. The minimum term is to be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater. During the minimum term, the defendant is ineligible for parole.

Finally, the bill permits the prosecution, if the evidence so warrants, to seek an indictment and conviction for aggravated manslaughter. Aggravated manslaughter is a crime of the first degree.

**A-2929**, amends and supplements the statutes concerning the revocation of the registration privilege for persons driving with a revoked or suspended driver's license. Under the provisions of the bill, a person convicted of drunk driving while his driver's license is suspended



or a person convicted of driving while his license is suspended for the second or third time within a five-year period would have his motor vehicle registration privilege revoked. The bill permits the director of Department of Motor Vehicles to issue a temporary registration certificate and license plates when the operation of the vehicle by other members of the family is necessary in certain circumstances.