

2C: 20-17

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 2C:20-17

(Auto theft--
juvenile)

LAWS OF: 1991

CHAPTER: 81

Bill No: A764

Sponsor(s): Duch and others

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: January 8, 1991

Senate: March 4, 1991

Date of Approval: April 2, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clippings--attached:

KBG/SLJ

[SECOND REPRINT]

ASSEMBLY, No. 764

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen DUCH, GILL, Kronick and
Assemblywoman Crecco

1 AN ACT concerning the use of juveniles for theft of automobiles
2 and supplementing Title 2C of the New Jersey Statutes.

3

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

6 1. a. A person who is at least 18 years of age who knowingly
7 uses, solicits, directs, hires or employs a person ²who is in fact²
8 17 years of age or younger to commit theft of an automobile is
9 guilty of a crime of the second degree ¹[and shall be sentenced to
10 a term of imprisonment which shall include a minimum term of at
11 least 18 months during which the defendant shall be ineligible for
12 parole]. Notwithstanding the provisions of N.J.S.2C:1-8, a
13 conviction under this section shall not merge with a conviction
14 for theft of an automobile. Nothing contained in this act shall
15 prohibit the court from imposing an extended term pursuant to
16 N.J.S.2C:43-7; nor shall this act be construed in any way to
17 preclude or limit the prosecution or conviction of any person for
18 conspiracy under N.J.S.2C:5-2, or any prosecution or conviction
19 for any other offense¹.

20 b. ¹[It shall be no defense to a prosecution under this section
21 that the actor mistakenly believed that the person which the
22 actor used, solicited, directed, hired or employed was older than
23 17 years of age, even if such mistaken belief was reasonable.]
24 ²[If the person that the actor used, solicited, directed, hired or
25 employed to commit theft of an automobile is 17 years of age or
26 younger, there shall be a rebuttable presumption that the actor
27 knew he was using, soliciting, directing, hiring or employing a
28 juvenile.¹] It shall be no defense to a prosecution under this
29 section that the actor mistakenly believed that the person which
30 the actor used, solicited, directed, hired or employed was older
31 than 17 years of age, even if such mistaken belief was
32 reasonable.²

33 2. This act shall take effect immediately.

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CRIMINAL JUSTICE

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38 Creates offense of employing juvenile for auto theft; imposes
39 mandatory 18 months imprisonment.

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:

¹ Assembly AJL committee amendments adopted October 29, 1990.

² Senate SJU committee amendments adopted January 31, 1991.

ASSEMBLY, No. 764

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen DUCH and GILL

1 AN ACT concerning the use of juveniles for theft of automobiles
2 and supplementing Title 2C of the New Jersey Statutes.

3

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

6 1. a. A person who is at least 18 years of age who knowingly
7 uses, solicits, directs, hires or employs a person 17 years of age
8 or younger to commit theft of an automobile is guilty of a crime
9 of the second degree and shall be sentenced to a term of
10 imprisonment which shall include a minimum term of at least 18
11 months during which the defendant shall be ineligible for parole.

12 b. It shall be no defense to a prosecution under this section
13 that the actor mistakenly believed that the person which the
14 actor used, solicited, directed, hired or employed was older than
15 17 years of age, even if such mistaken belief was reasonable.

16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill would create a new criminal offense of employing a
22 juvenile for the commission of an auto theft. A person commits
23 this crime if, being at least 18 years of age, he knowingly uses,
24 solicits, directs, hires or employs a person 17 years of age or
25 younger to commit an auto theft. It is the sponsor's intent to
26 provide a strict penalty for those persons who use children as part
27 of a criminal scheme. A person convicted under the bill would be
28 guilty of a second degree crime and subject to a mandatory
29 minimum term of at least 18 months imprisonment.

30 The bill also provides that it is no defense that the adult
31 mistakenly believed the person employed was over 17, even if
32 such a belief was reasonable.

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CRIMINAL JUSTICE

36

37 Creates offense of employing juvenile for auto theft; imposes
38 mandatory 18 months imprisonment.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 764

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 29, 1990

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 764.

This bill would create the offense of employing a juvenile to commit auto theft. Under the bill, any adult who uses a juvenile 17 years of age or younger as part of an auto theft operation would be guilty of a crime of the second degree. Generally, theft of an automobile is a crime of the third degree.

The bill in its original form also provided a mandatory minimum term of 18 months imprisonment without parole eligibility for the offense. Generally, crimes of the second degree are punishable by between five and 10 years imprisonment, a fine of up to \$100,000 or both. The committee amendments delete the mandatory penalties.

In addition the bill originally provided that it is no defense to a charge of employing a youth in an auto theft operation that the adult mistakenly believed that the person employed was over 17 even if that belief was reasonable. The committee amended this language to make the adult's knowledge to the minor's age a rebuttable presumption. The committee also added language which would provide that a conviction for employing a juvenile to commit auto theft would not merge with another conviction for auto theft.

This bill was prefiled for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 764

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 31, 1991

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 764(1R).

This bill would create the offense of employing a juvenile to commit auto theft. Under the bill, any adult who uses a juvenile 17 years of age or younger as part of an auto theft operation would be guilty of a crime of the second degree. Crimes of the second degree are punishable by between five and 10 years imprisonment, a fine of up to \$100,000 or both.

This bill also provides that a conviction for employing a juvenile to commit auto theft would not merge with a conviction for any other offense.

As passed by the Assembly, the bill would have established a rebuttable presumption that if the accused employed a juvenile in connection with auto theft, the accused knew the juvenile's age. By committee amendment, this provision was deleted and language contained in the bill as introduced was reinserted providing that it is no defense that the accused mistakenly believed that the person used to commit auto theft was over 17, even if that mistake was reasonable.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001
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Release:

Tuesday
April 2, 1991

GOVERNOR FLORIO SIGNS PACKAGE AIMED AT TOUGHER LAWS, PENALTIES FOR CAR THEFTS

Car thieves will now face stiffer penalties and tougher laws in New Jersey -- a state ranked third highest in the number of car thefts -- under a package of legislation signed by Governor Jim Florio today.

"Yesterday we kept our promise to the drivers of New Jersey. The JUA surcharge is history and every car owner in this state is saving money. Today we're keeping a promise to another group of people: those who make a living stealing cars or cheating the insurance companies and honest drivers of this state," said Governor Florio. "The promise is we will catch you and you will go to jail."

"As you can see, this is one of the leading entry points for new cars," said the Governor, at a press conference at Port Elizabeth. "It's time our streets stopped being one of the leading points of exit for stolen cars. The bills I'm signing today will toughen our already tough efforts to fight auto theft and fraud."

The four bills will:

- **Increase penalties for auto theft.**
(A 2967/A 496/S 1925/S 812; Sponsored by Assemblymen Cohen, Deverin and Gill/Senators Lesniak and Rice)

Auto theft is currently a third degree crime, subject to 3-5 years of imprisonment and fines of up to \$7,500. Under the new law, additional penalties will be assessed of up to an additional \$1,000 and a 10-year license suspension for third-time offenders. The law also provides that Prosecutors can apply to have cases of auto theft by a juvenile waived from Family Court to adult court.

- **Creates the offense of employing a juvenile for auto theft**
(A 764/S 1294/S 1429; Sponsored by Assemblymen Duch and Gill/Senators Lesniak and Bassano)

Under this law, anyone over age 18 who knowingly uses, directs or hires someone 17 or younger to commit auto theft will be guilty of a second-degree crime. The standard penalty for a second degree crime is a prison term of 5-10 years and a fine of up to \$100,000.

- **Creates a new criminal offense of operating a facility for stolen parts**
(S 1926/A 4482; Senator Lesniak/Assemblymen Deverin and Cohen)

This law creates a new criminal offense for operating a "chop shop", which is a facility for remodeling, repainting or separating stolen auto parts. The new offense is a second degree crime, subject to 5-10 years imprisonment and up to \$100,000 in fines. Under current law, a person operating a "chop shop" would generally only be convicted of possession of stolen property, which is a third degree.

- **Creates a new criminal offense of a leader of an auto theft trafficking network**
(A 2996/S 778; Sponsored Assemblymen Cohen and Deverin/Senator Bubba)

This law creates a new offense of being a leader of an auto theft network. This bill is modeled on the federal "Drug Kingpin" statute. The offender must be found to have conspired with others as an organizer or manager of a scheme to unlawfully take or transport automobiles for profit. This crime is a second degree crime, subject to 5-10 years in prison or up to \$100,000 in fines. In addition, the court may impose a fine of up to \$250,000 or five times the value of the cars seized at the time of arrest.

Governor Florio cited a number of steps the state has taken under the state's new car insurance law -- Fair Auto Insurance Reform (F.A.I.R.). These steps include requiring all car insurance companies to submit anti-fraud plans, a photo inspection system to fight fraud and a car theft hotline.

"With these new laws and measures in F.A.I.R., we're shifting into high gear in the fight against theft and fraud, The result: the unfortunate trend in New Jersey towards more theft and fraud will go into reverse," said Governor Florio. "That's what the people of New Jersey demand and deserve. Car theft and jail. Perfect together."

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