

2C:11-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:11-5 (Death by auto-upgrade to crime of 3rd degree)

LAWS OF: 1984 CHAPTER: 212

Bill No: A934

Sponsor(s): Kern and others

Date Introduced: January 30, 1984

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: No Assembly committee substitute enacted. Substituted for S103 (not attached since identical to A934)

Date of Passage: Assembly: June 18, 1984

Senate: November 19, 1984

Date of Approval: December 13, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See Newspaper clipping - Trenton Times, 2-14-84 - attached.

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212 84
12-13-84

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 934

STATE OF NEW JERSEY

ADOPTED MARCH 15, 1984

Sponsored by Assemblyman KERN

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

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

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

2 2C:11-5. Death by auto. a. Criminal homicide constitutes death
3 by auto when it is caused by driving a vehicle recklessly.

4 b. Death by auto is a crime of the **[fourth]** *third* degree and
5 notwithstanding the provisions of 2C:43-2, the court may not sus-
6 pend the imposition of sentence on any defendant convicted under
7 this section who was operating the vehicle under the influence of
8 an intoxicating liquor, narcotic, hallucinogenic or habit-producing
9 drug and any sentence imposed under this section shall include
10 either a fixed minimum term of 120 days imprisonment during
11 which the defendant shall be ineligible for parole or a requirement
12 that the defendant perform a community related service for a
13 minimum of 120 days.

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

1 2. This act shall take effect immediately.

**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 printed in italics thus is new matter.**

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ASSEMBLY, No. 934

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1984

By Assemblymen KERN, SHUSTED, ROCCO, KAVANAUGH, KOSCO, SCHUBER, FELICE, CHINNICI, PALAIA, MUZIANI, HENDRICKSON, VILLANE, ALBOHN, Assemblywoman MUHLER and Assemblyman ZIMMER

AN ACT creating the motor vehicle violation of unintentional homicide and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

1 1. A person who unintentionally causes the death of another
2 person while engaged in a violation of R. S. 39:4-50, R. S. 39:4-96,
3 R. S. 39:4-98 where an excess of 20 miles per hour over the autho-
4 rized speed limit is found, or R. S. 39:4-129 is guilty of unintentional
5 vehicular homicide when any one of the violations is the proximate
6 cause of death. A person who violates this act shall be fined not
7 less than \$500.00 nor more than \$1,000.00, or shall be imprisoned
8 not less than 90 days nor more than six months, or both, in addition
9 to any other penalty imposed upon the person.

1 2. A person accused of a violation of this act shall be entitled to
2 the same rights of discovery as allowed defendants pursuant to the
3 Rules Governing Criminal Practice as set forth in the Rules
4 Governing the Courts of the State of New Jersey.

1 3. No record of a judgment of conviction hereunder shall be
2 admissible in a civil action for damages arising out of the accident
3 in which the death occurred.

1 4. This act shall take effect immediately.

STATEMENT

This bill provides a jail sentence and fine for those drivers who cause a fatality where the driver and driving while intoxicated, driving recklessly, exceeding the authorized speed limit by more than 20 miles per hour or leaving the scene of an accident.

While N. J. S. 2C:11-5, relating to causing death by auto, has been used to prosecute motor vehicle fatality cases, the statute has proven unsatisfactory because it is an indictable offense and prosecutors and grand juries have been hesitant to indict. In the past it was hard to establish the burden of proof under that statute.

This matter would be tried in municipal court, which would expedite the matter compared to Superior Court which would take much longer.

Under this statute, the driver would be subject to a fine and jail sentence. A license revocation was purposely omitted since this is already handled administratively by the Director of the Division of Motor Vehicles pursuant to R. S. 39:5-30.

ASSEMBLY JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 934

STATE OF NEW JERSEY

DATED: MARCH 5, 1984

This committee substitute, which upgrades the penalty for death by auto, was considered by the Assembly Judiciary, Law, Public Safety and Defense Committee as a part of its comprehensive review of the laws on alcohol abuse in the last session. Under current law, the penalty is one of a fourth degree crime; this committee substitute upgrades the penalty to third degree.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 934

STATE OF NEW JERSEY

DATED: SEPTEMBER 20, 1984

Presently, death by auto is classified as a crime of the fourth degree. Crimes of the fourth degree are punishable by up to eighteen months imprisonment and/or a fine of up to \$7,500.00. This bill would reclassify death by auto as a crime of the third degree. Crimes of the third degree are punishable by between three and five years imprisonment and/or a fine of up to \$7,500.00.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956

TRENTON, N.J. 08625

Release: THURSDAY, DEC. 13, 1984

185 W. State Street
Trenton, N. J.

Governor Thomas H. Kean today signed legislation increasing the penalty for causing death by auto, establishing a prison term of from three to five years for conviction on the charge.

The legislation, A-934, was sponsored by Assemblyman Walter M. D. Kern, R-Bergen, and raises death by auto from a fourth degree crime to a third degree crime. It is effective immediately.

The Governor signed the bill at a public ceremony held at Giants Stadium, kicking off a safe driving campaign during the Christmas and New Year's holiday season.

The ceremony was witnessed by more than 400 police officers from departments in Bergen, Morris, Monmouth, Middlesex and Mercer Counties, all of which have received either State or Federal funds to finance anti-drunk driving and safe driving campaigns. In addition, departments in Hudson and Passaic Counties attended.

"Let all of those who would drive recklessly, carelessly or under the influence of alcohol and who cause the death of others know that New Jersey will deal swiftly and severely with them," the Governor said.

The legislation signed by Kean includes a fine of up to \$7,500, in addition to the jail term, for conviction of a death by auto charge.

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Under current law, a crime of the fourth degree is punishable by a fine of up to \$7,500 and a prison term of up to 18 months.

"New Jersey, in the past few years, has compiled an enviable record of highway safety and now ranks third in the nation in the ratio of deaths to miles traveled," Kean said. "In 1983, fatalities in New Jersey fell below 1,000 for the first time in 20 years.

"As outstanding as that is, it is not good enough," the Governor said. "It is my commitment to put New Jersey in first place in the nation in terms of highway safety and to keep highway fatalities on the downward trend of the past three years."

"We are approaching the traditional season of happiness --- Christmas and New Year's --- but it is also the traditional season of highway tragedy," the Governor said. "And, in many cases, those highway tragedies involve alcohol abuse.

"This event today and the participation by these hundreds of officers will send a clear signal that we intend to do everything in our power to keep this holiday season happy, not tragic," Kean said.

Kean was joined at the podium by Attorney General Irwin Kimmelman; Colonel Clinton Pagano, Superintendent of the State Police, and Fanwood Police Chief Anthony Parenti, President of the New Jersey Police Traffic Officers Association.

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