

2C:20-38

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 1

NJSA: 2C:20-38 (Concerns lost or stolen EZ pass transponders)

BILL NO: S725 (Substituted for A3478)

SPONSOR(S) Sacco and others

DATE INTRODUCED: January 12, 2010

COMMITTEE: **ASSEMBLY:** Transportation, Public Waste and Independent Authorities

SENATE: Transportation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 2010

SENATE: June 21, 2010

DATE OF APPROVAL: January 25, 2011

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S725

SPONSOR'S STATEMENT: (Begins on page 5 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A3478

SPONSOR'S STATEMENT: (Begins on page 5 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs 9 bills into law, including measure to improve fire safety at New Jersey colleges,"
NewJerseyNewsroom.com, 1-27-11.

LAW/KR

[First Reprint]

SENATE, No. 725

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman CRAIG J. COUGHLIN

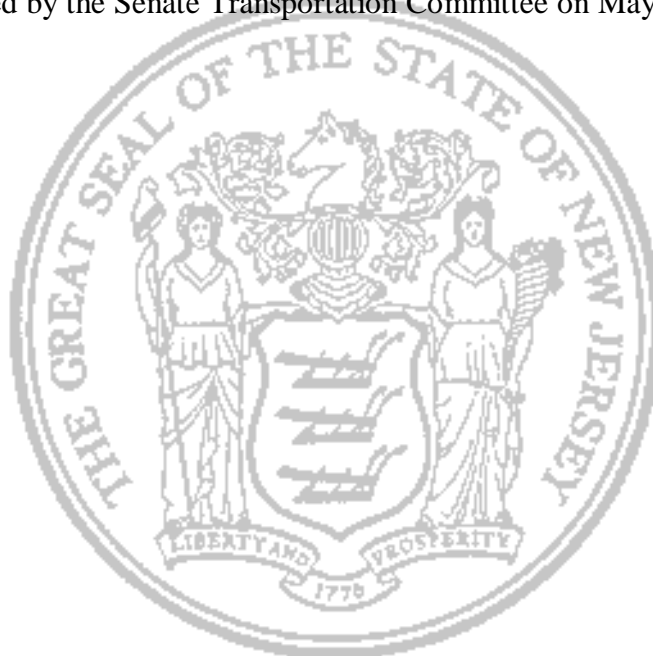
District 19 (Middlesex)

SYNOPSIS

Concerns lost or stolen E-ZPass transponders.

CURRENT VERSION OF TEXT

As reported by the Senate Transportation Committee on May 10, 2010, with amendments.



(Sponsorship Updated As Of: 12/14/2010)

1 AN ACT concerning lost or stolen electronic vehicle identification
2 system transponders, amending N.J.S.2C:20-2 and
3 supplementing Title 2C of the New Jersey Statutes and Title 27 of
4 the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 ¹[1.N.J.S.2C:20-2 is amended to read as follows:

10 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
11 Applicable to Theft Generally.

12 a. Consolidation of Theft and Computer Criminal Activity
13 Offenses. Conduct denominated theft or computer criminal activity
14 in this chapter constitutes a single offense, but each episode or
15 transaction may be the subject of a separate prosecution and
16 conviction. A charge of theft or computer criminal activity may be
17 supported by evidence that it was committed in any manner that
18 would be theft or computer criminal activity under this chapter,
19 notwithstanding the specification of a different manner in the
20 indictment or accusation, subject only to the power of the court to
21 ensure fair trial by granting a bill of particulars, discovery, a
22 continuance, or other appropriate relief where the conduct of the
23 defense would be prejudiced by lack of fair notice or by surprise.

24 b. Grading of theft offenses.

25 (1) Theft constitutes a crime of the second degree if:

26 (a) The amount involved is \$75,000.00 or more;

27 (b) The property is taken by extortion;

28 (c) The property stolen is a controlled dangerous substance or
29 controlled substance analog as defined in N.J.S.2C:35-2 and the
30 quantity is in excess of one kilogram;

31 (d) The property stolen is a person's benefits under federal or
32 State law, or from any other source, which the Department of
33 Human Services or an agency acting on its behalf has budgeted for
34 the person's health care and the amount involved is \$75,000 or
35 more; or

36 (e) The property stolen is human remains or any part thereof.

37 (2) Theft constitutes a crime of the third degree if:

38 (a) The amount involved exceeds \$500.00 but is less than
39 \$75,000.00;

40 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
41 horse, domestic companion animal or airplane;

42 (c) The property stolen is a controlled dangerous substance or
43 controlled substance analog as defined in N.J.S.2C:35-2 and the
44 amount involved is less than \$75,000.00 or is undetermined and the

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:

¹Senate STR committee amendments adopted May 10, 2010.

- 1 quantity is one kilogram or less;
- 2 (d) It is from the person of the victim;
- 3 (e) It is in breach of an obligation by a person in his capacity as a
4 fiduciary;
- 5 (f) It is by threat not amounting to extortion;
- 6 (g) It is of a public record, writing or instrument kept, filed or
7 deposited according to law with or in the keeping of any public
8 office or public servant;
- 9 (h) The property stolen is a person's benefits under federal or
10 State law, or from any other source, which the Department of
11 Human Services or an agency acting on its behalf has budgeted for
12 the person's health care and the amount involved is less than
13 \$75,000;
- 14 (i) The property stolen is any real or personal property related to,
15 necessary for, or derived from research, regardless of value,
16 including, but not limited to, any sample, specimens and
17 components thereof, research subject, including any warm-blooded
18 or cold-blooded animals being used for research or intended for use
19 in research, supplies, records, data or test results, prototypes or
20 equipment, as well as any proprietary information or other type of
21 information related to research;
- 22 (j) The property stolen is a New Jersey Prescription Blank as
23 referred to in R.S.45:14-14;
- 24 (k) The property stolen consists of an access device or a defaced
25 access device; or
- 26 (l) The property stolen consists of anhydrous ammonia and the
27 actor intends it to be used to manufacture methamphetamine.
- 28 (3) Theft constitutes a crime of the fourth degree if the amount
29 involved is at least \$200.00 but does not exceed \$500.00.
- 30 **[If] (4) Theft constitutes a disorderly persons offense if [the]:**
- 31 (a) The amount involved was less than \$200.00 [the offense
32 constitutes a disorderly persons offense]; or
- 33 (b) The property stolen is an electronic vehicle identification
34 system transponder.
- 35 **[(4)]**The amount involved in a theft or computer criminal
36 activity shall be determined by the trier of fact. The amount shall
37 include, but shall not be limited to, the amount of any State tax
38 avoided, evaded or otherwise unpaid, improperly retained or
39 disposed of. Amounts involved in thefts or computer criminal
40 activities committed pursuant to one scheme or course of conduct,
41 whether from the same person or several persons, may be
42 aggregated in determining the grade of the offense.
- 43 c. Claim of right. It is an affirmative defense to prosecution for
44 theft that the actor:
- 45 (1) Was unaware that the property or service was that of another;
- 46 (2) Acted under an honest claim of right to the property or
47 service involved or that he had a right to acquire or dispose of it as

1 he did; or

2 (3) Took property exposed for sale, intending to purchase and
3 pay for it promptly, or reasonably believing that the owner, if
4 present, would have consented.

5 d. Theft from spouse. It is no defense that theft or computer
6 criminal activity was from or committed against the actor's spouse,
7 except that misappropriation of household and personal effects, or
8 other property normally accessible to both spouses, is theft or
9 computer criminal activity only if it occurs after the parties have
10 ceased living together.

11 (cf: P.L.2005, c.207, s.4)]¹

12

13 ¹1. N.J.S.2C:20-2 is amended to read as follows:

14 2C:20-2. a. Consolidation of Theft and Computer Criminal
15 Activity Offenses. Conduct denominated theft or computer
16 criminal activity in this chapter constitutes a single offense, but
17 each episode or transaction may be the subject of a separate
18 prosecution and conviction. A charge of theft or computer criminal
19 activity may be supported by evidence that it was committed in any
20 manner that would be theft or computer criminal activity under this
21 chapter, notwithstanding the specification of a different manner in
22 the indictment or accusation, subject only to the power of the court
23 to ensure fair trial by granting a bill of particulars, discovery, a
24 continuance, or other appropriate relief where the conduct of the
25 defense would be prejudiced by lack of fair notice or by surprise.

26 b. Grading of theft offenses.

27 (1) Theft constitutes a crime of the second degree if:

28 (a) The amount involved is \$75,000.00 or more;

29 (b) The property is taken by extortion;

30 (c) The property stolen is a controlled dangerous substance or
31 controlled substance analog as defined in N.J.S.2C:35-2 and the
32 quantity is in excess of one kilogram;

33 (d) The property stolen is a person's benefits under federal or
34 State law, or from any other source, which the Department of
35 Human Services or an agency acting on its behalf has budgeted for
36 the person's health care and the amount involved is \$75,000.00 or
37 more; or

38 (e) The property stolen is human remains or any part thereof;
39 except that, if the human remains are stolen by deception or
40 falsification of a document by which a gift of all or part of a human
41 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
42 theft constitutes a crime of the first degree.

43 (2) Theft constitutes a crime of the third degree if:

44 (a) The amount involved exceeds \$500.00 but is less than
45 \$75,000.00;

46 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
47 horse, domestic companion animal or airplane;

1 (c) The property stolen is a controlled dangerous substance or
2 controlled substance analog as defined in N.J.S.2C:35-2 and the
3 amount involved is less than \$75,000.00 or is undetermined and the
4 quantity is one kilogram or less;

5 (d) It is from the person of the victim;

6 (e) It is in breach of an obligation by a person in his capacity as
7 a fiduciary;

8 (f) It is by threat not amounting to extortion;

9 (g) It is of a public record, writing or instrument kept, filed or
10 deposited according to law with or in the keeping of any public
11 office or public servant;

12 (h) The property stolen is a person's benefits under federal or
13 State law, or from any other source, which the Department of
14 Human Services or an agency acting on its behalf has budgeted for
15 the person's health care and the amount involved is less than
16 \$75,000.00;

17 (i) The property stolen is any real or personal property related
18 to, necessary for, or derived from research, regardless of value,
19 including, but not limited to, any sample, specimens and
20 components thereof, research subject, including any warm-blooded
21 or cold-blooded animals being used for research or intended for use
22 in research, supplies, records, data or test results, prototypes or
23 equipment, as well as any proprietary information or other type of
24 information related to research;

25 (j) The property stolen is a New Jersey Prescription Blank as
26 referred to in R.S.45:14-14;

27 (k) The property stolen consists of an access device or a defaced
28 access device; or

29 (l) The property stolen consists of anhydrous ammonia and the
30 actor intends it to be used to manufacture methamphetamine.

31 (3) Theft constitutes a crime of the fourth degree if the amount
32 involved is at least \$200.00 but does not exceed \$500.00.

33 **【If the】** (4) Theft constitutes a disorderly persons offense if:

34 (a) The amount involved was less than \$200.00 [the offense
35 constitutes a disorderly persons offense]; or

36 (b) The property stolen is an electronic vehicle identification
37 system transponder.

38 **【(4)】** The amount involved in a theft or computer criminal
39 activity shall be determined by the trier of fact. The amount shall
40 include, but shall not be limited to, the amount of any State tax
41 avoided, evaded or otherwise unpaid, improperly retained or
42 disposed of. Amounts involved in thefts or computer criminal
43 activities committed pursuant to one scheme or course of conduct,
44 whether from the same person or several persons, may be
45 aggregated in determining the grade of the offense.

46 c. Claim of right. It is an affirmative defense to prosecution
47 for theft that the actor:

1 (1) Was unaware that the property or service was that of
2 another;

3 (2) Acted under an honest claim of right to the property or
4 service involved or that he had a right to acquire or dispose of it as
5 he did; or

6 (3) Took property exposed for sale, intending to purchase and
7 pay for it promptly, or reasonably believing that the owner, if
8 present, would have consented.

9 d. Theft from spouse. It is no defense that theft or computer
10 criminal activity was from or committed against the actor's spouse,
11 except that misappropriation of household and personal effects, or
12 other property normally accessible to both spouses, is theft or
13 computer criminal activity only if it occurs after the parties have
14 ceased living together.¹

15 (cf: P.L.2008, c.50, s.21)

16

17 2. (New section) Notwithstanding the provisions of Title 2C of
18 the New Jersey Statutes to the contrary, a person convicted of theft
19 of an electronic vehicle identification system transponder under
20 subparagraph (b) of paragraph (4) of subsection b. of N.J.S.2C:20-2
21 shall, in lieu of the fine prescribed for that offense, be subject to a
22 fine of not less than \$500 nor more than \$10,000 upon conviction.

23

24 3. (New section) a. A customer who has an account with a
25 New Jersey electronic toll collection system, subject to sections 6
26 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5),
27 and who reports in a timely manner to the operator of the electronic
28 toll collection system the loss or theft of an electronic vehicle
29 identification system transponder shall not be liable for:

30 (1) unauthorized charges of \$50 or more incurred prior to the
31 reporting of the transponder as lost or stolen; or

32 (2) unauthorized charges incurred after the reporting of the
33 transponder as lost or stolen.

34 b. When a customer reports in a timely manner to the operator
35 of the electronic toll collection system the theft of a transponder and
36 submits to the operator a copy of the police report of the theft, the
37 customer shall not be charged any fees for the stolen transponder or
38 for a replacement transponder.

39

40 4. (New section) a. A customer who has an account with a
41 New Jersey electronic toll collection system, subject to sections 11
42 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-
43 21.5), and who reports in a timely manner to the operator of the
44 electronic toll collection system the loss or theft of an electronic
45 vehicle identification system transponder shall not be liable for:

46 (1) unauthorized charges of \$50 or more incurred prior to the
47 reporting of the transponder as lost or stolen; or

1 (2) unauthorized charges incurred after the reporting of the
2 transponder as lost or stolen.

3 b. When a customer reports in a timely manner to the operator
4 of the electronic toll collection system the theft of a transponder and
5 submits to the operator a copy of the police report of the theft, the
6 customer shall not be charged any fees for the stolen transponder or
7 for a replacement transponder.

8

9 5. This act shall take effect immediately.

SENATE, No. 725

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

SYNOPSIS

Concerns lost or stolen E-ZPass transponders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning lost or stolen electronic vehicle identification
2 system transponders, amending N.J.S.2C:20-2 and
3 supplementing Title 2C of the New Jersey Statutes and Title 27 of
4 the Revised Statutes.

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6 **BE IT ENACTED** by the Senate and General Assembly of the State
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11 Applicable to Theft Generally.

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26 (a) The amount involved is \$75,000.00 or more;

27 (b) The property is taken by extortion;

28 (c) The property stolen is a controlled dangerous substance or
29 controlled substance analog as defined in N.J.S.2C:35-2 and the
30 quantity is in excess of one kilogram;

31 (d) The property stolen is a person's benefits under federal or
32 State law, or from any other source, which the Department of
33 Human Services or an agency acting on its behalf has budgeted for
34 the person's health care and the amount involved is \$75,000 or
35 more; or

36 (e) The property stolen is human remains or any part thereof.

37 (2) Theft constitutes a crime of the third degree if:

38 (a) The amount involved exceeds \$500.00 but is less than
39 \$75,000.00;

40 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
41 horse, domestic companion animal or airplane;

42 (c) The property stolen is a controlled dangerous substance or
43 controlled substance analog as defined in N.J.S.2C:35-2 and the
44 amount involved is less than \$75,000.00 or is undetermined and the
45 quantity is one kilogram or less;

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 (d) It is from the person of the victim;
- 2 (e) It is in breach of an obligation by a person in his capacity as a
3 fiduciary;
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6 deposited according to law with or in the keeping of any public
7 office or public servant;
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17 or cold-blooded animals being used for research or intended for use
18 in research, supplies, records, data or test results, prototypes or
19 equipment, as well as any proprietary information or other type of
20 information related to research;
- 21 (j) The property stolen is a New Jersey Prescription Blank as
22 referred to in R.S.45:14-14;
- 23 (k) The property stolen consists of an access device or a defaced
24 access device; or
- 25 (l) The property stolen consists of anhydrous ammonia and the
26 actor intends it to be used to manufacture methamphetamine.
- 27 (3) Theft constitutes a crime of the fourth degree if the amount
28 involved is at least \$200.00 but does not exceed \$500.00.
- 29 **【If】 (4) Theft constitutes a disorderly persons offense if 【the】:**
- 30 **(a) The amount involved was less than \$200.00 【the offense**
31 **constitutes a disorderly persons offense】; or**
- 32 **(b) The property stolen is an electronic vehicle identification**
33 **system transponder.**
- 34 **【(4)】**The amount involved in a theft or computer criminal
35 activity shall be determined by the trier of fact. The amount shall
36 include, but shall not be limited to, the amount of any State tax
37 avoided, evaded or otherwise unpaid, improperly retained or
38 disposed of. Amounts involved in thefts or computer criminal
39 activities committed pursuant to one scheme or course of conduct,
40 whether from the same person or several persons, may be
41 aggregated in determining the grade of the offense.
- 42 c. Claim of right. It is an affirmative defense to prosecution for
43 theft that the actor:
- 44 (1) Was unaware that the property or service was that of another;
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46 service involved or that he had a right to acquire or dispose of it as
47 he did; or

1 (3) Took property exposed for sale, intending to purchase and
2 pay for it promptly, or reasonably believing that the owner, if
3 present, would have consented.

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5 criminal activity was from or committed against the actor's spouse,
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7 other property normally accessible to both spouses, is theft or
8 computer criminal activity only if it occurs after the parties have
9 ceased living together.

10 (cf: P.L.2005, c.207, s.4)

11

12 2. (New section) Notwithstanding the provisions of Title 2C of
13 the New Jersey Statutes to the contrary, a person convicted of theft
14 of an electronic vehicle identification system transponder under
15 subparagraph (b) of paragraph (4) of subsection b. of N.J.S.2C:20-2
16 shall, in lieu of the fine prescribed for that offense, be subject to a
17 fine of not less than \$500 nor more than \$10,000 upon conviction.

18

19 3. (New section) a. A customer who has an account with a
20 New Jersey electronic toll collection system, subject to sections 6
21 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5),
22 and who reports in a timely manner to the operator of the electronic
23 toll collection system the loss or theft of an electronic vehicle
24 identification system transponder shall not be liable for:

25 (1) unauthorized charges of \$50 or more incurred prior to the
26 reporting of the transponder as lost or stolen; or

27 (2) unauthorized charges incurred after the reporting of the
28 transponder as lost or stolen.

29 b. When a customer reports in a timely manner to the operator
30 of the electronic toll collection system the theft of a transponder and
31 submits to the operator a copy of the police report of the theft, the
32 customer shall not be charged any fees for the stolen transponder or
33 for a replacement transponder.

34

35 4. (New section) a. A customer who has an account with a
36 New Jersey electronic toll collection system, subject to sections 11
37 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-
38 21.5), and who reports in a timely manner to the operator of the
39 electronic toll collection system the loss or theft of an electronic
40 vehicle identification system transponder shall not be liable for:

41 (1) unauthorized charges of \$50 or more incurred prior to the
42 reporting of the transponder as lost or stolen; or

43 (2) unauthorized charges incurred after the reporting of the
44 transponder as lost or stolen.

45 b. When a customer reports in a timely manner to the operator
46 of the electronic toll collection system the theft of a transponder and
47 submits to the operator a copy of the police report of the theft, the

1 customer shall not be charged any fees for the stolen transponder or
2 for a replacement transponder.

3

4 5. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would make the theft of an electronic vehicle
10 identification system transponder disorderly persons offense, with a
11 fine of not less than \$500 nor more than \$10,000 upon conviction.

12 The E-ZPass system, an electronic toll collection system, has
13 reduced toll plaza congestion and speeded traffic flow on the toll
14 roads of this State. Unfortunately, the detachable electronic
15 transponder on a vehicle's windshield that is read by a toll plaza
16 receiver has proven an easy target for thieves.

17 This bill further provides that a customer who has an account
18 with an operator of a New Jersey electronic toll collection system
19 ("E-ZPass") and who reports the loss or theft of a transponder in a
20 timely manner shall not be liable for unauthorized charges of \$50 or
21 more that were incurred before the loss or theft was reported or for
22 any charges after the loss or theft is reported. If the customer who
23 is reporting a stolen transponder also submits a copy of the police
24 report of the theft, the customer shall not be charged any fees for
25 the stolen transponder or for a replacement transponder.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 725

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 10, 2010

The Senate Transportation Committee reports favorably Senate Bill No. 725 with committee amendments.

This amended bill would make the theft of an electronic vehicle identification system transponder a disorderly persons offense, with a fine of not less than \$500 nor more than \$10,000 upon conviction.

The E-ZPass system, an electronic toll collection system, has reduced toll plaza congestion and speeded traffic flow on the toll roads of this State. Unfortunately, the detachable electronic transponder on a vehicle's windshield that is read by a toll plaza receiver has proven an easy target for thieves.

This bill further provides that a customer who has an account with an operator of a New Jersey electronic toll collection system ("E-ZPass") and who reports the loss or theft of a transponder in a timely manner shall not be liable for unauthorized charges of \$50 or more that were incurred before the loss or theft was reported or for any charges after the loss or theft is reported. If the customer who is reporting a stolen transponder also submits a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

The committee amended the bill to provide the latest version of the law.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 725

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 2010

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably Senate Bill No. 725(1R).

As reported, this bill would make the theft of an electronic vehicle identification system transponder a disorderly persons offense, with a fine of not less than \$500 nor more than \$10,000 upon conviction. The E-ZPass system, an electronic toll collection system, has reduced toll plaza congestion and speeded traffic flow on the toll roads of this State. Unfortunately, the detachable electronic transponder on a vehicle's windshield that is read by a toll plaza receiver has proven an easy target for thieves.

This bill further provides that a customer who has an account with an operator of a New Jersey electronic toll collection system ("E-ZPass") and who reports the loss or theft of a transponder in a timely manner shall not be liable for unauthorized charges of \$50 or more that were incurred before the loss or theft was reported or for any charges after the loss or theft is reported. If the customer who is reporting a stolen transponder also submits a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

As reported, Senate Bill No. 725(1R) is identical to Assembly Bill No. 3478, which was also reported by the committee on this date.

ASSEMBLY, No. 3478

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 15, 2010

Sponsored by:

Assemblyman **JOHN S. WISNIEWSKI**

District 19 (Middlesex)

Assemblyman **CRAIG J. COUGHLIN**

District 19 (Middlesex)

SYNOPSIS

Concerns lost or stolen E-ZPass transponders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2010)

1 AN ACT concerning lost or stolen electronic vehicle identification
2 system transponders, amending N.J.S.2C:20-2 and
3 supplementing Title 2C of the New Jersey Statutes and Title 27 of
4 the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

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9 1. N.J.S.2C:20-2 is amended to read as follows:

10 2C:20-2. a. Consolidation of Theft and Computer Criminal
11 Activity Offenses. Conduct denominated theft or computer
12 criminal activity in this chapter constitutes a single offense, but
13 each episode or transaction may be the subject of a separate
14 prosecution and conviction. A charge of theft or computer criminal
15 activity may be supported by evidence that it was committed in any
16 manner that would be theft or computer criminal activity under this
17 chapter, notwithstanding the specification of a different manner in
18 the indictment or accusation, subject only to the power of the court
19 to ensure fair trial by granting a bill of particulars, discovery, a
20 continuance, or other appropriate relief where the conduct of the
21 defense would be prejudiced by lack of fair notice or by surprise.

22 b. Grading of theft offenses.

23 (1) Theft constitutes a crime of the second degree if:

24 (a) The amount involved is \$75,000.00 or more;

25 (b) The property is taken by extortion;

26 (c) The property stolen is a controlled dangerous substance or
27 controlled substance analog as defined in N.J.S.2C:35-2 and the
28 quantity is in excess of one kilogram;

29 (d) The property stolen is a person's benefits under federal or
30 State law, or from any other source, which the Department of
31 Human Services or an agency acting on its behalf has budgeted for
32 the person's health care and the amount involved is \$75,000.00 or
33 more; or

34 (e) The property stolen is human remains or any part thereof;
35 except that, if the human remains are stolen by deception or
36 falsification of a document by which a gift of all or part of a human
37 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
38 theft constitutes a crime of the first degree.

39 (2) Theft constitutes a crime of the third degree if:

40 (a) The amount involved exceeds \$500.00 but is less than
41 \$75,000.00;

42 (b) The property stolen is a firearm, motor vehicle, vessel, boat,
43 horse, domestic companion animal or airplane;

44 (c) The property stolen is a controlled dangerous substance or
45 controlled substance analog as defined in N.J.S.2C:35-2 and the

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 amount involved is less than \$75,000.00 or is undetermined and the
2 quantity is one kilogram or less;
- 3 (d) It is from the person of the victim;
- 4 (e) It is in breach of an obligation by a person in his capacity as
5 a fiduciary;
- 6 (f) It is by threat not amounting to extortion;
- 7 (g) It is of a public record, writing or instrument kept, filed or
8 deposited according to law with or in the keeping of any public
9 office or public servant;
- 10 (h) The property stolen is a person's benefits under federal or
11 State law, or from any other source, which the Department of
12 Human Services or an agency acting on its behalf has budgeted for
13 the person's health care and the amount involved is less than
14 \$75,000.00;
- 15 (i) The property stolen is any real or personal property related
16 to, necessary for, or derived from research, regardless of value,
17 including, but not limited to, any sample, specimens and
18 components thereof, research subject, including any warm-blooded
19 or cold-blooded animals being used for research or intended for use
20 in research, supplies, records, data or test results, prototypes or
21 equipment, as well as any proprietary information or other type of
22 information related to research;
- 23 (j) The property stolen is a New Jersey Prescription Blank as
24 referred to in R.S.45:14-14;
- 25 (k) The property stolen consists of an access device or a defaced
26 access device; or
- 27 (l) The property stolen consists of anhydrous ammonia and the
28 actor intends it to be used to manufacture methamphetamine.
- 29 (3) Theft constitutes a crime of the fourth degree if the amount
30 involved is at least \$200.00 but does not exceed \$500.00.
- 31 **【If the】 (4) Theft constitutes a disorderly persons offense if:**
- 32 **(a) The amount involved was less than \$200.00 【the offense**
33 **constitutes a disorderly persons offense】; or**
- 34 **(b) The property stolen is an electronic vehicle identification**
35 **system transponder.**
- 36 **【(4)】** The amount involved in a theft or computer criminal
37 activity shall be determined by the trier of fact. The amount shall
38 include, but shall not be limited to, the amount of any State tax
39 avoided, evaded or otherwise unpaid, improperly retained or
40 disposed of. Amounts involved in thefts or computer criminal
41 activities committed pursuant to one scheme or course of conduct,
42 whether from the same person or several persons, may be
43 aggregated in determining the grade of the offense.
- 44 c. Claim of right. It is an affirmative defense to prosecution
45 for theft that the actor:
- 46 (1) Was unaware that the property or service was that of
47 another;

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did; or

4 (3) Took property exposed for sale, intending to purchase and
5 pay for it promptly, or reasonably believing that the owner, if
6 present, would have consented.

7 d. Theft from spouse. It is no defense that theft or computer
8 criminal activity was from or committed against the actor's spouse,
9 except that misappropriation of household and personal effects, or
10 other property normally accessible to both spouses, is theft or
11 computer criminal activity only if it occurs after the parties have
12 ceased living together.

13 (cf: P.L.2008, c.50, s.21)

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15 2. (New section) Notwithstanding the provisions of Title 2C of
16 the New Jersey Statutes to the contrary, a person convicted of theft
17 of an electronic vehicle identification system transponder under
18 subparagraph (b) of paragraph (4) of subsection b. of N.J.S.2C:20-2
19 shall, in lieu of the fine prescribed for that offense, be subject to a
20 fine of not less than \$500 nor more than \$10,000 upon conviction.

21

22 3. (New section) a. A customer who has an account with a
23 New Jersey electronic toll collection system, subject to sections 6
24 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5),
25 and who reports in a timely manner to the operator of the electronic
26 toll collection system the loss or theft of an electronic vehicle
27 identification system transponder shall not be liable for:

28 (1) unauthorized charges of \$50 or more incurred prior to the
29 reporting of the transponder as lost or stolen; or

30 (2) unauthorized charges incurred after the reporting of the
31 transponder as lost or stolen.

32 b. When a customer reports in a timely manner to the operator
33 of the electronic toll collection system the theft of a transponder and
34 submits to the operator a copy of the police report of the theft, the
35 customer shall not be charged any fees for the stolen transponder or
36 for a replacement transponder.

37

38 4. (New section) a. A customer who has an account with a
39 New Jersey electronic toll collection system, subject to sections 11
40 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-
41 21.5), and who reports in a timely manner to the operator of the
42 electronic toll collection system the loss or theft of an electronic
43 vehicle identification system transponder shall not be liable for:

44 (1) unauthorized charges of \$50 or more incurred prior to the
45 reporting of the transponder as lost or stolen; or

46 (2) unauthorized charges incurred after the reporting of the
47 transponder as lost or stolen.

48 b. When a customer reports in a timely manner to the operator

1 of the electronic toll collection system the theft of a transponder and
2 submits to the operator a copy of the police report of the theft, the
3 customer shall not be charged any fees for the stolen transponder or
4 for a replacement transponder.

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6 5. This act shall take effect immediately.

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STATEMENT

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11 This bill would make the theft of an electronic vehicle
12 identification system transponder a disorderly persons offense, with
13 a fine of not less than \$500 nor more than \$10,000 upon conviction.

14 The E-ZPass system, an electronic toll collection system, has
15 reduced toll plaza congestion and speeded traffic flow on the toll
16 roads of this State. Unfortunately, the detachable electronic
17 transponder on a vehicle's windshield that is read by a toll plaza
18 receiver has proven an easy target for thieves.

19 This bill further provides that a customer who has an account
20 with an operator of a New Jersey electronic toll collection system
21 ("E-ZPass") and who reports the loss or theft of a transponder in a
22 timely manner shall not be liable for unauthorized charges of \$50 or
23 more that were incurred before the loss or theft was reported or for
24 any charges after the loss or theft is reported. If the customer who
25 is reporting a stolen transponder also submits a copy of the police
26 report of the theft, the customer shall not be charged any fees for
27 the stolen transponder or for a replacement transponder.

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3478

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 2010

The Assembly Transportation, Public Works and Independent Authorities Committee reports favorably Assembly Bill No. 3478.

As reported, this bill would make the theft of an electronic vehicle identification system transponder a disorderly persons offense, with a fine of not less than \$500 nor more than \$10,000 upon conviction. The E-ZPass system, an electronic toll collection system, has reduced toll plaza congestion and speeded traffic flow on the toll roads of this State. Unfortunately, the detachable electronic transponder on a vehicle's windshield that is read by a toll plaza receiver has proven an easy target for thieves.

This bill further provides that a customer who has an account with an operator of a New Jersey electronic toll collection system ("E-ZPass") and who reports the loss or theft of a transponder in a timely manner shall not be liable for unauthorized charges of \$50 or more that were incurred before the loss or theft was reported or for any charges after the loss or theft is reported. If the customer who is reporting a stolen transponder also submits a copy of the police report of the theft, the customer shall not be charged any fees for the stolen transponder or for a replacement transponder.

As reported, Assembly Bill No. 3478 is identical to Senate Bill No. 725(1R), which was also reported by the committee on this date.