

SENATE, No. 2496

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JANUARY 25, 2007

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS

Prohibits smoking in motor vehicle with child present.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning endangering the welfare of a child and
2 amending N.J.S.2C:24-4.

3

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

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7 1. N.J.S.2C:24-4 is amended to read as follows:

8 2C:24-4. Endangering Welfare of Children.

9 a. Any person having a legal duty for the care of a child or who
10 has assumed responsibility for the care of a child who engages in
11 sexual conduct which would impair or debauch the morals of the
12 child, or who causes the child harm that would make the child an
13 abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and
14 P.L.1974, c.119, s.1 (C.9:6-8.21) is guilty of a crime of the second
15 degree. Any other person who engages in conduct or who causes
16 harm as described in this subsection to a child under the age of 16 is
17 guilty of a crime of the third degree.

18 b. (1) As used in this subsection:

19 "Child" means any person under 16 years of age.

20 "Internet" means the international computer network of both
21 federal and non-federal interoperable packet switched data
22 networks.

23 "Prohibited sexual act" means

24 (a) Sexual intercourse; or

25 (b) Anal intercourse; or

26 (c) Masturbation; or

27 (d) Bestiality; or

28 (e) Sadism; or

29 (f) Masochism; or

30 (g) Fellatio; or

31 (h) Cunnilingus;

32 (i) Nudity, if depicted for the purpose of sexual stimulation or
33 gratification of any person who may view such depiction; or

34 (j) Any act of sexual penetration or sexual contact as defined in
35 N.J.S.2C:14-1.

36 "Reproduction" means, but is not limited to, computer generated
37 images.

38 (2) (Deleted by amendment, P.L.2001, c.291).

39 (3) A person commits a crime of the second degree if he causes
40 or permits a child to engage in a prohibited sexual act or in the
41 simulation of such an act if the person knows, has reason to know
42 or intends that the prohibited act may be photographed, filmed,
43 reproduced, or reconstructed in any manner, including on the
44 Internet, or may be part of an exhibition or performance. If the
45 person is a parent, guardian or other person legally charged with 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 care or custody of the child, the person shall be guilty of a crime of
2 the first degree.

3 (4) Any person who photographs or films a child in a prohibited
4 sexual act or in the simulation of such an act or who uses any
5 device, including a computer, to reproduce or reconstruct the image
6 of a child in a prohibited sexual act or in the simulation of such an
7 act is guilty of a crime of the second degree.

8 (5) (a) Any person who knowingly receives for the purpose of
9 selling or who knowingly sells, procures, manufactures, gives,
10 provides, lends, trades, mails, delivers, transfers, publishes,
11 distributes, circulates, disseminates, presents, exhibits, advertises,
12 offers or agrees to offer, through any means, including the Internet,
13 any photograph, film, videotape, computer program or file, video
14 game or any other reproduction or reconstruction which depicts a
15 child engaging in a prohibited sexual act or in the simulation of
16 such an act, is guilty of a crime of the second degree.

17 (b) Any person who knowingly possesses or knowingly views
18 any photograph, film, videotape, computer program or file, video
19 game or any other reproduction or reconstruction which depicts a
20 child engaging in a prohibited sexual act or in the simulation of
21 such an act, including on the Internet, is guilty of a crime of the
22 fourth degree.

23 (6) For purposes of this subsection, a person who is depicted as
24 or presents the appearance of being under the age of 16 in any
25 photograph, film, videotape, computer program or file, video game
26 or any other reproduction or reconstruction shall be rebuttably
27 presumed to be under the age of 16. If the child who is depicted as
28 engaging in, or who is caused to engage in, a prohibited sexual act
29 or simulation of a prohibited sexual act is under the age of 16, the
30 actor shall be strictly liable and it shall not be a defense that the
31 actor did not know that the child was under the age of 16, nor shall
32 it be a defense that the actor believed that the child was 16 years of
33 age or older, even if such a mistaken belief was reasonable.

34 c. (1) As used in this subsection:

35 “Child” means a “child” as defined in paragraph (1) of
36 subsection b. of this section.

37 “Smoke” means to have in one’s immediate possession a lighted
38 pipe, cigar, or cigarette containing tobacco or any other plant.

39 (2) A person is guilty of a petty disorderly persons offense if he
40 smokes in a motor vehicle in which there is a child.

41 (3) Notwithstanding the provisions of N.J.S.2C:43-8, no term of
42 imprisonment may be imposed for a violation of this subsection.

43 (a) For a first offense, a person may be subject to a fine not to
44 exceed \$250.

45 (b) For a second offense, a person may be subject to a fine not to
46 exceed \$500.

