

ASSEMBLY, No. 1673

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblywoman ALISON LITTELL MCHOSE

District 24 (Sussex, Hunterdon and Morris)

Assemblyman GARY R. CHIUSANO

District 24 (Sussex, Hunterdon and Morris)

SYNOPSIS

Adds “significant bodily injury” to assault by auto or vessel statute; upgrades penalties for inflicting serious bodily injury.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning assault by auto or vessel and amending
2 N.J.S.2C:12-1.

3

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

6

7 1. N.J.S.2C:12-1 is amended to read as follows:

8 2C:12-1. Assault. a. Simple assault. A person is guilty of
9 assault if he:

10 (1) Attempts to cause or purposely, knowingly or recklessly
11 causes bodily injury to another; or

12 (2) Negligently causes bodily injury to another with a deadly
13 weapon; or

14 (3) Attempts by physical menace to put another in fear of
15 imminent serious bodily injury.

16 Simple assault is a disorderly persons offense unless committed
17 in a fight or scuffle entered into by mutual consent, in which case it
18 is a petty disorderly persons offense.

19 b. Aggravated assault. A person is guilty of aggravated assault
20 if he:

21 (1) Attempts to cause serious bodily injury to another, or causes
22 such injury purposely or knowingly or under circumstances
23 manifesting extreme indifference to the value of human life
24 recklessly causes such injury; or

25 (2) Attempts to cause or purposely or knowingly causes bodily
26 injury to another with a deadly weapon; or

27 (3) Recklessly causes bodily injury to another with a deadly
28 weapon; or

29 (4) Knowingly under circumstances manifesting extreme
30 indifference to the value of human life points a firearm, as defined
31 in section 2C:39-1f., at or in the direction of another, whether or not
32 the actor believes it to be loaded; or

33 (5) Commits a simple assault as defined in subsection a. (1), (2)
34 or (3) of this section upon:

35 (a) Any law enforcement officer acting in the performance of his
36 duties while in uniform or exhibiting evidence of his authority or
37 because of his status as a law enforcement officer; or

38 (b) Any paid or volunteer fireman acting in the performance of
39 his duties while in uniform or otherwise clearly identifiable as being
40 engaged in the performance of the duties of a fireman; or

41 (c) Any person engaged in emergency first-aid or medical
42 services acting in the performance of his duties while in uniform or
43 otherwise clearly identifiable as being engaged in the performance
44 of emergency first-aid or medical services; or

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) Any school board member, school administrator, teacher,
2 school bus driver or other employee of a school board while clearly
3 identifiable as being engaged in the performance of his duties or
4 because of his status as a member or employee of a school board or
5 any school bus driver employed by an operator under contract to a
6 school board while clearly identifiable as being engaged in the
7 performance of his duties or because of his status as a school bus
8 driver; or

9 (e) Any employee of the Division of Youth and Family Services
10 while clearly identifiable as being engaged in the performance of
11 his duties or because of his status as an employee of the division; or

12 (f) Any justice of the Supreme Court, judge of the Superior
13 Court, judge of the Tax Court or municipal judge while clearly
14 identifiable as being engaged in the performance of judicial duties
15 or because of his status as a member of the judiciary; or

16 (g) Any operator of a motorbus or the operator's supervisor or
17 any employee of a rail passenger service while clearly identifiable
18 as being engaged in the performance of his duties or because of his
19 status as an operator of a motorbus or as the operator's supervisor or
20 as an employee of a rail passenger service; or

21 (h) Any Department of Corrections employee, county corrections
22 officer, juvenile corrections officer, State juvenile facility
23 employee, juvenile detention staff member, juvenile detention
24 officer, probation officer or any sheriff, undersheriff, or sheriff's
25 officer acting in the performance of his duties while in uniform or
26 exhibiting evidence of his authority; or

27 **[(I)]** (i) Any employee, including any person employed under
28 contract, of a utility company as defined in section 2 of P.L.1971,
29 c.224 (C.2A:42-86) or a cable television company subject to the
30 provisions of the "Cable Television Act," P.L.1972, c.186
31 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
32 the performance of his duties in regard to connecting, disconnecting
33 or repairing or attempting to connect, disconnect or repair any gas,
34 electric or water utility, or cable television or telecommunication
35 service; or

36 (6) Causes bodily injury to another person while fleeing or
37 attempting to elude a law enforcement officer in violation of
38 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
39 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
40 other provision of law to the contrary, a person shall be strictly
41 liable for a violation of this subsection upon proof of a violation of
42 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
43 violation of subsection c. of N.J.S.2C:20-10 which resulted in
44 bodily injury to another person; or

45 (7) Attempts to cause significant bodily injury to another or
46 causes significant bodily injury purposely or knowingly or, under

1 circumstances manifesting extreme indifference to the value of
2 human life recklessly causes such significant bodily injury; or

3 (8) Causes bodily injury by knowingly or purposely starting a
4 fire or causing an explosion in violation of N.J.S.2C:17-1 which
5 results in bodily injury to any emergency services personnel
6 involved in fire suppression activities, rendering emergency
7 medical services resulting from the fire or explosion or rescue
8 operations, or rendering any necessary assistance at the scene of the
9 fire or explosion, including any bodily injury sustained while
10 responding to the scene of a reported fire or explosion. For
11 purposes of this subsection, "emergency services personnel" shall
12 include, but not be limited to, any paid or volunteer fireman, any
13 person engaged in emergency first-aid or medical services and any
14 law enforcement officer. Notwithstanding any other provision of
15 law to the contrary, a person shall be strictly liable for a violation of
16 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
17 resulted in bodily injury to any emergency services personnel; or

18 (9) Knowingly, under circumstances manifesting extreme
19 indifference to the value of human life, points or displays a firearm,
20 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
21 a law enforcement officer; or

22 (10) Knowingly points, displays or uses an imitation firearm, as
23 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a
24 law enforcement officer with the purpose to intimidate, threaten or
25 attempt to put the officer in fear of bodily injury or for any unlawful
26 purpose; or

27 (11) Uses or activates a laser sighting system or device, or a
28 system or device which, in the manner used, would cause a
29 reasonable person to believe that it is a laser sighting system or
30 device, against a law enforcement officer acting in the performance
31 of his duties while in uniform or exhibiting evidence of his
32 authority. As used in this paragraph, "laser sighting system or
33 device" means any system or device that is integrated with or
34 affixed to a firearm and emits a laser light beam that is used to
35 assist in the sight alignment or aiming of the firearm.

36 Aggravated assault under subsections b. (1) and b. (6) is a crime
37 of the second degree; under subsections b. (2), b. (7), b. (9) and b.
38 (10) is a crime of the third degree; under subsections b. (3) and b.
39 (4) is a crime of the fourth degree; and under subsection b. (5) is a
40 crime of the third degree if the victim suffers bodily injury,
41 otherwise it is a crime of the fourth degree. Aggravated assault
42 under subsection b.(8) is a crime of the third degree if the victim
43 suffers bodily injury; if the victim suffers significant bodily injury
44 or serious bodily injury it is a crime of the second degree.
45 Aggravated assault under subsection b.(11) is a crime of the third
46 degree.

1 c. (1) A person is guilty of assault by auto or vessel when the
2 person drives a vehicle or vessel recklessly and causes **[either]**
3 serious bodily injury, significant bodily injury, or bodily injury to
4 another. Assault by auto or vessel is a crime of the fourth degree if
5 serious bodily injury results, and, notwithstanding the provisions of
6 paragraph (4) of subsection a. of N.J.S.2C:43-6, the defendant may
7 be sentenced to an ordinary term of imprisonment between 18
8 months and three years; it is a crime of the fourth degree if
9 significant bodily injury results; and is a disorderly persons offense
10 if bodily injury results.

11 (2) Assault by auto or vessel is a crime of the third degree if the
12 person drives the vehicle while in violation of R.S.39:4-50 or
13 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
14 injury results, and, notwithstanding the provisions of paragraph (3)
15 of subsection a. of N.J.S.2C:43-6, the defendant may be sentenced
16 to an ordinary term of imprisonment between three and 10 years; it
17 is a crime of the third degree if significant bodily injury results, and
18 is a crime of the fourth degree if **[the person drives the vehicle**
19 **while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512**
20 **(C.39:4-50.4a) and]** bodily injury results.

21 (3) Assault by auto or vessel is a crime of the second degree,
22 and, notwithstanding the provisions of paragraph (2) of subsection
23 a. of N.J.S.2C:43-6, the defendant may be sentenced to an ordinary
24 term of imprisonment between five and 15 years if serious bodily
25 injury results from the defendant operating the auto or vessel while
26 in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-
27 50.4a) while:

28 (a) on any school property used for school purposes which is
29 owned by or leased to any elementary or secondary school or school
30 board, or within 1,000 feet of such school property;

31 (b) driving through a school crossing as defined in R.S.39:1-1 if
32 the municipality, by ordinance or resolution, has designated the
33 school crossing as such; or

34 (c) driving through a school crossing as defined in R.S.39:1-1
35 knowing that juveniles are present if the municipality has not
36 designated the school crossing as such by ordinance or resolution.

37 Assault by auto or vessel is a crime of the second degree if
38 significant bodily injury results from the defendant operating the
39 auto or vessel in violation of this paragraph and is a crime of the
40 third degree if bodily injury results from the defendant operating the
41 auto or vessel in violation of this paragraph.

42 A map or true copy of a map depicting the location and
43 boundaries of the area on or within 1,000 feet of any property used
44 for school purposes which is owned by or leased to any elementary
45 or secondary school or school board produced pursuant to section 1
46 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
47 subparagraph (a) of paragraph (3) of this section.

1 It shall be no defense to a prosecution for a violation of
2 subparagraph (a) or (b) of paragraph (3) of this subsection that the
3 defendant was unaware that the prohibited conduct took place while
4 on or within 1,000 feet of any school property or while driving
5 through a school crossing. Nor shall it be a defense to a prosecution
6 under subparagraph (a) or (b) of paragraph (3) of this subsection
7 that no juveniles were present on the school property or crossing
8 zone at the time of the offense or that the school was not in session.

9 As used in this section, "vessel" means a means of conveyance
10 for travel on water and propelled otherwise than by muscular
11 power.

12 d. A person who is employed by a facility as defined in section 2
13 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
14 defined in paragraph (1) or (2) of subsection a. of this section upon
15 an institutionalized elderly person as defined in section 2 of
16 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
17 degree.

18 e. (Deleted by amendment, P.L.2001, c.443).

19 f. A person who commits a simple assault as defined in
20 paragraph (1), (2) or (3) of subsection a. of this section in the
21 presence of a child under 16 years of age at a school or community
22 sponsored youth sports event is guilty of a crime of the fourth
23 degree. The defendant shall be strictly liable upon proof that the
24 offense occurred, in fact, in the presence of a child under 16 years
25 of age. It shall not be a defense that the defendant did not know
26 that the child was present or reasonably believed that the child was
27 16 years of age or older. The provisions of this subsection shall not
28 be construed to create any liability on the part of a participant in a
29 youth sports event or to abrogate any immunity or defense available
30 to a participant in a youth sports event. As used in this act, "school
31 or community sponsored youth sports event" means a competition,
32 practice or instructional event involving one or more interscholastic
33 sports teams or youth sports teams organized pursuant to a
34 nonprofit or similar charter or which are member teams in a youth
35 league organized by or affiliated with a county or municipal
36 recreation department and shall not include collegiate, semi-
37 professional or professional sporting events.

38 (cf: P.L.2005, c.2, s.1)

39

40 2. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill would add "significant bodily injury" to the State's
46 assault by auto or vessel statute.

1 Under N.J.S.2C:12-1, persons commit assault by auto or vessel if
2 they drive a vehicle or vessel recklessly and cause “serious bodily
3 injury” or “bodily injury.” Serious bodily injury is defined as
4 “bodily injury which creates a substantial risk of death or which
5 causes serious, permanent disfigurement, or protracted loss or
6 impairment of the function of any bodily member or organ.” Bodily
7 injury is defined as “physical pain, illness or any impairment of
8 physical condition.” If the driver causes serious bodily injury, it is
9 a crime of the fourth degree, which is punishable by a term of
10 imprisonment of up to 18 months, a fine of up to \$10,000, or both.
11 If the driver causes bodily injury, it is a disorderly persons offense,
12 which is punishable by a imprisonment of up to six months, a fine
13 of up to \$1,000, or both.

14 Under the bill, persons would commit assault by auto or vessel if
15 they drive a vehicle or vessel recklessly and cause “significant
16 bodily injury,” a gradation of injury between “serious bodily injury”
17 and “bodily injury.” Significant bodily injury is defined as “bodily
18 injury which creates a temporary loss of the function of any bodily
19 member or organ or temporary loss of any one of the five senses.”
20 The bill also would make assault by auto or vessel resulting in
21 significant bodily injury a fourth degree crime, but would
22 differentiate the current fourth-degree crime of assault by auto
23 resulting in serious bodily injury by allowing the court to imprison
24 the violator for up to three years.

25 The bill also adds the gradation of “significant injury” to assault
26 by auto or vessel when the driver was in violation of R.S.39:4-50,
27 the State’s drunk driving law, when the assault occurred. If
28 significant bodily injury occurs, the violator would be guilty of a
29 third degree crime, punishable by three-to-five years imprisonment,
30 a fine of up to \$15,000, or both. It would also continue to be a
31 crime of the third degree if serious bodily injury results, but the
32 violator could be sentenced to up to 10 years imprisonment.

33 The bill similarly adds the gradation of “significant injury” to
34 assault by auto or vessel when a drunk driver commits the assault in
35 a school zone. This would be a crime of the second degree,
36 punishable by five-to-ten years imprisonment, a fine of up to
37 \$150,000, or both. It also would continue to be a second-degree
38 crime under the bill if the assault results in serious bodily injury,
39 but the violator could be sentenced to up to 15 years imprisonment.