

SENATE, No. 846

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator DONALD NORCROSS
District 5 (Camden and Gloucester)
Senator JAMES W. HOLZAPFEL
District 10 (Ocean)

Co-Sponsored by:

Senators Bateman and A.R.Bucco

SYNOPSIS

Enhances penalty for leaving the scene of boating accident.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning accidents involving vessels operating on the
2 waters of this State and supplementing Title 2C of the New
3 Jersey Statutes and amending P.L.1962, c.73.

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

7
8 1. (New section) a. Whenever any vessel, as defined in section
9 2 of P.L.1995, c.401 (C.12:7-71), is involved in an accident upon
10 the waters of this State, and the operator of that vessel knows he is
11 involved in an accident and knowingly leaves the scene of that
12 accident under circumstances that violate the provisions of section
13 11 of P.L.1962, c.73 (C.12:7-34.46), that operator shall be guilty of
14 a crime of the second degree if the accident results in the death of
15 another person, and shall be guilty of a crime of the third degree if
16 the accident results in serious bodily injury to another person. The
17 presumption of nonimprisonment set forth in N.J.S.2C:44-1 shall
18 not apply to persons convicted under the provisions of this section.

19 b. If the evidence so warrants, nothing in this section shall be
20 deemed to preclude an indictment and conviction for aggravated
21 manslaughter under the provisions of N.J.S.2C:11-4 or vehicular
22 homicide under the provisions of N.J.S.2C:11-5.

23 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
24 provisions of law, a conviction arising under this section shall not
25 merge with a conviction for aggravated manslaughter under the
26 provisions of N.J.S.2C:11-4 or for vehicular homicide under the
27 provisions of N.J.S.2C:11-5 and a separate sentence shall be
28 imposed upon each such conviction.

29 d. Notwithstanding the provisions of N.J.S.2C:44-5 or any
30 other provisions of law, when the court imposes multiple sentences
31 of imprisonment for more than one offense, those sentences shall
32 run consecutively.

33 e. For the purposes of this section, knowledge of the death,
34 knowledge of the serious bodily injury, or knowledge of the
35 violation shall not be elements of the offense and it shall not be a
36 defense that the operator of the vessel was unaware of the death or
37 of the provisions of section 11 of P.L.1962, c.73 (C.12:7-34.46).

38
39 2. Section 11 of P.L.1962, c.73 (C.12:7-34.46) is amended to
40 read as follows:

41 11. (a) Whenever any vessel upon the waters of this State is
42 involved in an accident, it shall be the duty of the operator, so far as
43 he can do so without serious danger to his own passengers, guests,
44 crew, himself or his vessel, to render to all other persons affected
45 by the accident such assistance as may be necessary in order to save

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 them from or to minimize any danger caused by the accident. He
2 shall also give his name, address, and identifying information
3 regarding his vessel to any person injured and to the owner of any
4 property damaged in the accident. Any person who shall violate
5 this subsection shall be fined not less than \$200 or more than \$400,
6 or be imprisoned for a period of not more than 30 days, or both, for
7 the first offense, and for a subsequent offense, shall be fined not
8 less than \$400 or more than \$600, or be imprisoned for a period of
9 not less than 30 days or more than 90 days, or both.

10 (b) Whenever an accident involves any vessel subject to this act
11 and results in the death, disappearance, or injury of any person, or
12 in property damage in excess of the federal standard for filing an
13 accident report as established pursuant to 33 C.F.R. s.173.55, the
14 operator or operators thereof shall file, with the Division of State
15 Police, a full description of the accident, including such information
16 as that division may, by regulation, require within the times
17 specified in subsection (c) of this section. The Superintendent of
18 State Police shall notify operators, in a manner deemed appropriate,
19 of a change in the federal standard for filing an accident report.

20 (c) A boating accident that occurs on the waters of this State
21 shall be reported to the Division of State Police by the quickest
22 means of communication possible, if the accident has caused the
23 death or the disappearance of any person; any other reportable
24 boating accident that may result in personal injury or property
25 damage shall be reported within 10 days to the Division of State
26 Police.

27 (d) The report of a boating accident herein required to be made
28 by the operator of the vessel involved in the boating accident shall
29 not, during any judicial proceeding, be referred to in any way; it
30 shall not be subject to subpoena nor admissible as evidence in any
31 proceeding. Subject to these restrictions, information contained in a
32 boating accident report and any statistical information based
33 thereon will be made available upon request for official purposes to
34 the United States Coast Guard or any federal agency successor
35 thereto.

36 (cf: P.L.2005, c.292, s.3)

37

38 3. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 Under current law, the operator of a vessel is required to provide
44 assistance to people affected by an accident so long as that operator
45 is able to do so without endangering passengers. This bill makes it
46 a second degree crime if a vessel operator knowingly leaves the
47 scene of an accident that results in the death of another person, and

S846 NORCROSS, HOLZAPFEL

1 a crime of the third degree if the accident results in serious bodily
2 harm. The bill is modeled after current law, which makes it a
3 second degree crime to leave the scene of a motor vehicle accident
4 that results in the death of a passenger, and a third degree crime
5 when the accident results in serious bodily injury. A second degree
6 crime is punishable by five to 10 years imprisonment, a fine of up to
7 to \$150,000, or both. A crime of the third degree is punishable by
8 three to five years imprisonment, a fine of up to \$15,000, or both.
9 Current law defines “serious bodily injury” as bodily injury which
10 creates a substantial risk of death or which causes serious,
11 permanent disfigurement, or protracted loss or impairment of the
12 function of any bodily member or organ.

13 The bill specifies that its provisions do not preclude an
14 indictment and conviction for aggravated manslaughter or vehicular
15 homicide. The bill further specifies that its provisions shall not
16 merge with a conviction for aggravated manslaughter or vehicular
17 homicide. Convictions for multiple offenses arising under this bill
18 are to run consecutively.

19 In addition, the bill states that it is not a defense that the vessel
20 operator lacked knowledge of the death or injury, or knowledge of
21 the violation under the bill.

22 Finally, the bill amends current law to enhance the penalties for
23 failure of an operator to assist persons affected by an accident.
24 Under the bill, the penalties are a fine of not less than \$200 or more
25 than \$400, imprisonment for a period of not more than 30 days, or
26 both, for the first offense. For subsequent offense, the bill imposes a
27 fine of not less than \$400 or more than \$600, imprisonment for a
28 period of not less than 30 days or more than 90 days, or both.