

ASSEMBLY, No. 4449

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JANUARY 10, 2017

Sponsored by:

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Assemblyman R. BRUCE LAND

District 1 (Atlantic, Cape May and Cumberland)

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

“Driver and Pedestrian Mutual Responsibility Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning traffic control, designated as the "Driver and
2 Pedestrian Mutual Responsibility Act," and amending various
3 parts of the statutory law.

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

7
8 1. R.S.39:4-32 is amended to read as follows:

9 39:4-32. On highways where traffic is controlled by a traffic
10 control signal or by traffic or police officers:

11 a. Pedestrians shall not cross a roadway against the "stop" or
12 red signal at a crosswalk, whether marked or unmarked, unless
13 otherwise specifically directed to go by a traffic or police officer, or
14 official traffic control device.

15 b. **[No driver of a vehicle shall fail to stop and remain stopped**
16 **for a pedestrian crossing a roadway at a crosswalk when the**
17 **pedestrian is upon, or within one lane of, the half of the roadway**
18 **upon which the vehicle is traveling or onto which it is turning**
19 **during the "go" or green signal. As used in this subsection, "half of**
20 **the roadway" means all traffic lanes conveying traffic in one**
21 **direction of travel, and includes the entire width of a one-way**
22 **roadway.]** (Deleted by amendment, P.L. , c.) (pending before
23 the Legislature as this bill)

24 c. A pedestrian crossing or starting across the intersection on a
25 "go" or green signal, but who is still within the crosswalk when the
26 signal changes, shall have the right of way until the pedestrian has
27 reached the opposite curb or place of safety, and the driver of a
28 vehicle shall yield the right-of-way to the pedestrian.

29 d. **[No]** A pedestrian shall not leave a curb or other place of
30 safety and walk or run into the path of a vehicle which is so close
31 that it is impossible for the driver to yield or stop.

32 e. Whenever any vehicle is stopped to permit a pedestrian to
33 cross the roadway, the driver of any other vehicle approaching from
34 the rear shall not overtake and pass **[such]** the stopped vehicle.

35 f. **[Every pedestrian upon a roadway at any point other than**
36 **within a marked crosswalk or within an unmarked crosswalk at an**
37 **intersection,** shall yield the right-of-way to all vehicles upon the
38 roadway.] (Deleted by amendment, P.L. , c.) (pending before
39 the Legislature as this bill)

40 g. Nothing contained herein shall relieve a driver from the duty
41 to exercise due care for the safety of any pedestrian upon a
42 roadway. Nothing herein shall relieve a pedestrian from using due
43 care for **[his]** the pedestrian's safety.

44 h. **[In the event of a collision between a vehicle and a**
45 **pedestrian within a marked crosswalk, or at an unmarked crosswalk**

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 at an intersection, there shall be a permissive inference that the
2 driver did not exercise due care for the safety of the pedestrian.】
3 (Deleted by amendment, P.L. _____, c. _____) (pending before the
4 Legislature as this bill)
5 (cf: P.L.2009, c.319, s.1)

6
7 2. R.S.39:4-34 is amended to read as follows:
8 39:4-34. Where traffic is not controlled and directed either by a
9 police officer or a traffic control signal, 【pedestrians】 a pedestrian
10 shall cross the roadway only within a marked crosswalk or 【, in the
11 absence of a crosswalk, and where not otherwise prohibited, at right
12 angles to the roadway】 any unmarked crosswalk at an intersection
13 and shall not cross the roadway until traffic yields to the pedestrian.

14 A pedestrian shall not cross a roadway at an unmarked crosswalk
15 at an intersection where traffic is not controlled and directed either
16 by a police officer or a traffic control signal if a marked crosswalk
17 or intersection where traffic is controlled and directed by either a
18 police officer or a traffic control signal, which provides a means for
19 the pedestrian to cross the roadway, is within one block of the
20 unmarked crosswalk.

21 It shall be unlawful for a pedestrian to cross any highway having
22 roadways separated by a medial barrier, except where provision is
23 made for pedestrian crossing. On all highways where there are no
24 sidewalks or paths provided for pedestrian use, 【pedestrians】 a
25 pedestrian shall, when practicable, walk only on the extreme left
26 side of the roadway or its shoulder facing approaching traffic.

27 Where sidewalks are provided it shall be unlawful for any
28 pedestrian to walk along and upon an adjacent roadway.
29 (cf: P.L.1981, c.220, s.1)

30
31 3. R.S.39:4-36 is amended to read as follows:
32 39:4-36. a. The driver of a vehicle shall yield the right-of-way
33 to allow a pedestrian 【crossing】 at the edge of the roadway's curb
34 or crossing the roadway pursuant to R.S.39:4-34 to cross the
35 roadway within a marked crosswalk or within any unmarked
36 crosswalk at an intersection, except at crosswalks when the
37 movement of traffic is being regulated by police officers or traffic
38 control signals, or where otherwise regulated by municipal, county,
39 or State regulation, and except where a pedestrian tunnel or
40 overhead pedestrian crossing has been provided:

41 (1) 【The driver of a vehicle shall stop and remain stopped to
42 allow a pedestrian to cross the roadway within a marked crosswalk,
43 when the pedestrian is upon, or within one lane of, the half of the
44 roadway, upon which the vehicle is traveling or onto which it is
45 turning. As used in this paragraph, "half of the roadway" means all
46 traffic lanes conveying traffic in one direction of travel, and
47 includes the entire width of a one-way roadway.】 (Deleted by

1 amendment, P.L. , c.) (pending before the Legislature as this
2 bill)

3 (2) **【No】** A pedestrian shall not leave a curb or other place of
4 safety and walk or run into the path of a vehicle which is so close
5 that it is impossible for the driver to yield or stop.

6 (3) Whenever any vehicle is stopped to permit a pedestrian to
7 cross the roadway, the driver of any other vehicle approaching from
8 the rear shall not overtake and pass **【such】** the stopped vehicle.

9 (4) **【Every pedestrian upon a roadway at any point other than**
10 **within a marked crosswalk or within an unmarked crosswalk at an**
11 **intersection, shall yield the right-of-way to all vehicles upon the**
12 **roadway.】** (Deleted by amendment, P.L. , c.) (pending before
13 the Legislature as this bill)

14 (5) Nothing contained herein shall relieve a driver from the duty
15 to exercise due care for the safety of any pedestrian upon a
16 roadway. Nothing contained herein shall relieve a pedestrian from
17 using due care for **【his】** the pedestrian's safety.

18 b. A person violating any paragraph of subsection a. of this
19 section shall, upon conviction thereof, pay a fine to be imposed by
20 the court in the amount of \$200. The court may also impose upon a
21 person violating any paragraph of subsection a. of this section, a
22 penalty of community service not to exceed 15 days in **【such】** the
23 form and on **【such】** the terms as the court shall deem appropriate.
24 If the violation results in serious bodily injury to a pedestrian, the
25 person convicted of the violation shall be subject to a fine of not
26 less than \$100 or more than \$500, and may additionally be subject
27 to a sentence of imprisonment not to exceed 25 days, or a license
28 suspension not to exceed six months, or both, in the discretion of
29 the court. As used in this section, "serious bodily injury" means
30 serious bodily injury as defined in **【subsection b. of】** N.J.S.2C:11-1.

31 c. Of each fine imposed and collected pursuant to subsection b.
32 of this section, \$100 shall be forwarded to the State Treasurer who
33 shall annually deposit the moneys into the "Pedestrian Safety
34 Enforcement and Education Fund" created by section 1 of P.L.2005,
35 c.86 (C.39:4-36.2).

36 d. **【In the event of a collision between a vehicle and a**
37 **pedestrian within a marked crosswalk, or at an unmarked crosswalk**
38 **at an intersection, there shall be a permissive inference that the**
39 **driver did not exercise due care for the safety of the pedestrian.】**

40 (Deleted by amendment, P.L. , c.) (pending before the
41 Legislature as this bill)

42 (cf: P.L.2009, c.319, s.2)

43

44 4. R.S.39:4-115 is amended to read as follows:

45 39:4-115. The driver of a vehicle or the motorman of a streetcar:

46 a. intending to turn to the right or left at an intersection where
47 traffic is controlled by traffic control signals or by a traffic or police

1 officer, shall proceed to make either turn with proper care to avoid
2 accidents and, except as provided in **[b. below]** subsection b. of
3 this section, only upon the "go" signal unless otherwise directed by
4 a traffic or police officer, an official sign, or special signal; or

5 b. intending to turn right at an intersection where traffic is
6 controlled by a traffic control signal shall, unless an official sign of
7 the State, municipality, or county authority having jurisdiction over
8 the intersection prohibits the same, proceed to make the turn upon a
9 "stop" or "caution" signal with proper care to avoid accidents after
10 coming to a full stop, observing traffic in all directions, and
11 yielding to all pedestrians and other vehicular traffic traveling in a
12 direction in which the turn will be made**],** and stopping and
13 remaining stopped for pedestrians crossing the roadway within a
14 marked crosswalk, or at an unmarked crosswalk, into which the
15 driver is turning**].** Both the approach for and the turn shall be made
16 as close as practicable to the right-hand curb or edge of the
17 roadway, unless **[such]** the intersection is otherwise posted.

18 (cf: P.L.2009, c.319, s.3)

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20 5. R.S.39:4-144 is amended to read as follows:

21 39:4-144. **[No]** a. A driver of a vehicle or street car shall not
22 enter upon or cross an intersecting street marked with a "stop" sign
23 unless**]:**

24 a. **The]** the driver has first brought the vehicle or street car to a
25 complete stop at a point within five feet of the nearest crosswalk or
26 stop line marked upon the pavement at the near side of the
27 intersecting street and shall proceed only after yielding the right of
28 way to all vehicular traffic on the intersecting street which is so
29 close as to constitute an immediate hazard.

30 b. **[No]** A driver of a vehicle or street car shall not enter upon
31 or cross an intersecting street marked with a "yield right of way"
32 sign without first slowing to a reasonable speed for existing
33 conditions and visibility, stopping if necessary, and the driver shall
34 yield the right of way to all vehicular traffic on the intersecting
35 street which is so close as to constitute an immediate hazard; unless,
36 in either case, the driver is otherwise directed to proceed by a traffic
37 or police officer or traffic control signal.

38 c. **[No]** A driver of a vehicle or street car shall not turn right at
39 an intersecting street marked with a "stop" sign or "yield right of
40 way" sign unless the driver **[stops and remains stopped for]** yields
41 to pedestrians crossing the roadway within a marked crosswalk**[,]**
42 or at an unmarked crosswalk**[,]** into which the driver is turning.

43 (cf: P.L.2009, c.319, s.4)

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45 6. This act shall take effect immediately.

STATEMENT

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This bill, designated as the “Driver and Pedestrian Mutual Responsibility Act,” requires drivers to yield to pedestrians at crosswalks and intersections, in certain circumstances, as was required prior to the enactment of P.L.2009, c.319.

The sponsor’s intent is to balance responsibility between drivers and pedestrians when pedestrians cross a roadway.

Under the bill, a driver is required to yield to a pedestrian: (1) on highways where traffic is controlled by a traffic control signal or traffic or police officer, when the pedestrian is crossing or starting across the intersection on a “go” or green signal but is still within the crosswalk when the signal changes; (2) to allow the pedestrian at the edge of the roadway’s curb or legally crossing the roadway to cross a roadway within a marked crosswalk or any unmarked crosswalk at an intersection, with certain limited exceptions; (3) when the driver intends to turn right at an intersection where traffic is controlled by a traffic control signal upon a “stop” or “caution” signal; and (4) when the driver is turning right at an intersecting street marked with a “stop” or “yield right of way” sign and the pedestrian is crossing the roadway within a marked crosswalk or at an unmarked crosswalk into which the driver is turning.

The bill removes portions of existing law that were enacted pursuant to P.L.2009, c.319 to require a driver to stop and remain stopped to allow pedestrians to cross a roadway in certain situations.

In situations where traffic is not controlled and directed by a police officer or traffic control signal, the bill requires a pedestrian to cross a roadway only at a marked crosswalk or any unmarked crosswalk at an intersection where traffic is not controlled and directed by a police officer or traffic control signal and prohibits a pedestrian from crossing the roadway until traffic yields to the pedestrian.

Under the bill, a pedestrian is prohibited from crossing a roadway at an unmarked crosswalk at an intersection where traffic is not controlled and directed by a police officer or a traffic control signal if a marked crosswalk or intersection where traffic is controlled by a police officer or a traffic control signal is within one block of the unmarked crosswalk.

The bill removes provisions requiring a pedestrian upon a roadway at any point other than within a marked crosswalk or unmarked crosswalk at an intersection to yield the right of way to vehicles since pedestrians are: (1) prohibited from crossing a roadway against a “stop” or red signal at a crosswalk where traffic is controlled by a traffic control signal or by traffic or police officers; (2) prohibited, under the bill, from crossing a roadway until traffic yields to the pedestrian at a marked crosswalk or unmarked crosswalk at an intersection where traffic is not

1 controlled by a traffic control signal or police officer; and (3) are
2 required to cross a roadway at certain crosswalks.

3 The bill removes provisions of existing law providing a
4 permissive inference that a driver did not exercise due care for the
5 safety of a pedestrian in the event of a collision between the vehicle
6 and pedestrian within a marked crosswalk or at an unmarked
7 crosswalk at an intersection.