

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 490

STATE OF NEW JERSEY

ADOPTED JANUARY 23, 1997

Sponsored by Assemblywoman VANDERVALK and
Assemblyman GEIST

1 AN ACT concerning certain computer-related offenses and amending
2 N.J.S.2C:43-3.

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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:43-3 is amended to read as follows:

8 A person who has been convicted of an offense may be sentenced
9 to pay a fine, to make restitution, or both, such fine not to exceed:

10 a. \$100,000.00, when the conviction is of a crime of the first or
11 second degree;

12 b. \$7,500.00, when the conviction is of a crime of the third or
13 fourth degree;

14 c. \$1,000.00, when the conviction is of a disorderly persons
15 offense;

16 d. \$500.00, when the conviction is of a petty disorderly persons
17 offense;

18 e. Any higher amount equal to double the pecuniary gain to the
19 offender or loss to the victim caused by the conduct constituting the
20 offense by the offender. In such case the court shall make a finding as
21 to the amount of the gain or loss, and if the record does not contain
22 sufficient evidence to support such a finding the court may conduct a
23 hearing upon the issue. For purposes of this section the terms "gain"
24 means the amount of money or the value of property derived by the
25 offender and "loss" means the amount of value separated from the
26 victim or the amount of any payment owed to the victim and avoided
27 or evaded and includes any reasonable and necessary expense incurred
28 by the owner in recovering or replacing lost, stolen or damaged
29 property, or recovering any payment avoided or evaded, and, with
30 respect to property of a research facility, includes the cost of repeating

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 an interrupted or invalidated experiment or loss of profits. The term
2 "victim" shall mean a person who suffers a personal physical or
3 psychological injury or death or incurs loss of or injury to personal or
4 real property as a result of a crime committed against that person, or
5 in the case of a homicide, the nearest relative of the victim. The terms
6 "gain" and "loss" shall also mean, where appropriate, the amount of
7 any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid
8 or improperly retained or disposed of;

9 f. Any higher amount specifically authorized by another section
10 of this code or any other statute;

11 g. Up to twice the amounts authorized in subsection a., b., c. or
12 d. of this section, in the case of a second or subsequent conviction of
13 any tax offense defined in Title 54 of the Revised Statutes or Title 54A
14 of the New Jersey Statutes, as amended and supplemented, or of any
15 offense defined in chapter 20 or 21 of this code;

16 h. In the case of violations of chapter 35, any higher amount equal
17 to three times the street value of the controlled dangerous substance
18 or controlled substance analog. The street value for purposes of this
19 section shall be determined pursuant to subsection e. of N.J.S.2C:44-2;

20 i. Twice the amounts authorized in subsection a., b., c. or d. of
21 this section, in the case of a conviction of any offense defined in
22 chapter 20 or 21 of this code if the offense was committed through the
23 use of any computer, computer system or computer network or by
24 means of any other electronic communication.

25 The restitution ordered paid to the victim shall not exceed the
26 victim's loss, except that in any case involving the failure to pay any
27 State tax, the amount of restitution to the State shall be the full
28 amount of the tax avoided or evaded, including full civil penalties and
29 interest as provided by law. In any case where the victim of the
30 offense is any department or division of State government, the court
31 shall order restitution to the victim. Any restitution imposed on a
32 person shall be in addition to any fine which may be imposed pursuant
33 to this section.

34 (cf: P.L.1995, c.417, s.2)

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36 2. This act shall take effect immediately.

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Authorizes higher fines for certain computer-related offenses.