

ASSEMBLY, No. 697

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ZISA and ROMA

1 AN ACT concerning the increase of penalties for the offense of
2 resisting arrest and amending N.J.S.2C:29-2.

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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:29-2 is amended to read as follows:

8 2C:29-2. a. A person is guilty of a [disorderly persons offense]
9 crime of the fourth degree if he purposely prevents a law enforcement
10 officer from effecting a lawful arrest, except that he is guilty of a crime
11 of the [fourth] third degree if he:

12 1. Uses or threatens to use physical force or violence against the
13 law enforcement officer or another; or

14 2. Uses any other means to create a substantial risk of causing
15 physical injury to the public servant or another.

16 It is not a defense to a prosecution under this subsection that the
17 law enforcement officer was acting unlawfully in making the arrest,
18 provided he was acting under color of his official authority and
19 provided the law enforcement officer announces his intention to arrest
20 prior to the resistance.

21 b. Any person, while operating a motor vehicle on any street or
22 highway in this State or any vessel, as defined pursuant to section 2 of
23 P.L.1995, c.401 (C.12:7-71), on the waters of this State, who
24 knowingly flees or attempts to elude any police or law enforcement
25 officer after having received any signal from such officer to bring the
26 vehicle or vessel to a full stop commits a crime of the third degree;
27 except that, a person is guilty of a crime of the second degree if the
28 flight or attempt to elude creates a risk of death or injury to any
29 person. For purposes of this subsection, there shall be a permissive
30 inference that the flight or attempt to elude creates a risk of death or
31 injury to any person if the person's conduct involves a violation of
32 chapter 4 of Title 39 or chapter 7 of Title 12 of the Revised Statutes.
33 In addition to the penalty prescribed under this subsection or any other
34 section of law, the court shall order the suspension of that person's

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 driver's license, or privilege to operate a vessel, whichever is
2 appropriate, for a period of not less than six months or more than two
3 years.

4 In the case of a person who is at the time of the imposition of
5 sentence less than 17 years of age, the period of the suspension of
6 driving privileges authorized herein, including a suspension of the
7 privilege of operating a motorized bicycle, shall commence on the day
8 the sentence is imposed and shall run for a period as fixed by the
9 court. If the driving or vessel operating privilege of any person is
10 under revocation, suspension, or postponement for a violation of any
11 provision of this Title or Title 39 of the Revised Statutes at the time
12 of any conviction or adjudication of delinquency for a violation of any
13 offense defined in this chapter or chapter 36 of this Title, the
14 revocation, suspension, or postponement period imposed herein shall
15 commence as of the date of termination of the existing revocation,
16 suspension, or postponement.

17 Upon conviction the court shall collect forthwith the New Jersey
18 driver's licenses of the person and forward such license or licenses to
19 the Director of the Division of Motor Vehicles along with a report
20 indicating the first and last day of the suspension or postponement
21 period imposed by the court pursuant to this section. If the court is for
22 any reason unable to collect the license or licenses of the person, the
23 court shall cause a report of the conviction or adjudication of
24 delinquency to be filed with the director. That report shall include the
25 complete name, address, date of birth, eye color, and sex of the person
26 and shall indicate the first and last day of the suspension or
27 postponement period imposed by the court pursuant to this section.
28 The court shall inform the person orally and in writing that if the
29 person is convicted of personally operating a motor vehicle or vessel
30 whichever is appropriate, during the period of license suspension or
31 postponement imposed pursuant to this section the person shall, upon
32 conviction, be subject to the penalties set forth in R.S.39:3-40 or
33 section 14 of P.L.1995, c.401 (12:7-83), whichever is appropriate. A
34 person shall be required to acknowledge receipt of the written notice
35 in writing. Failure to receive a written notice or failure to acknowledge
36 in writing the receipt of a written notice shall not be a defense to a
37 subsequent charge of violation of R.S.39:3-40 or section 14 of
38 P.L.1995, c.401 (12:7-83), whichever is appropriate. If the person is
39 the holder of a driver's or vessel operator's license from another
40 jurisdiction, the court shall not collect the license but shall notify the
41 director who shall notify the appropriate officials in the licensing
42 jurisdiction. The court shall, however, in accordance with the
43 provisions of this section, revoke the person's non-resident driving or
44 vessel operating privileges, whichever is appropriate, in this State.

45 For the purposes of this subsection, it shall be a rebuttable
46 presumption that the owner of a vehicle or vessel was the operator of

1 the vehicle or vessel at the time of the offense.

2 (cf: P.L.1995, c.401, s.54)

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4 2. This act shall take effect immediately.

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9 Upgrades penalties for the offense of resisting arrest.