

ASSEMBLY, No. 1014

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen CONNORS and MORAN

1 AN ACT upgrading sentence for death by auto or vessel in certain  
2 circumstances and amending N.J.S.2C:11-5.

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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:11-5 is amended to read as follows:

8 2C:11-5. Death by auto or vessel. a. Criminal homicide  
9 constitutes death by auto or vessel when it is caused by driving a  
10 vehicle or vessel recklessly.

11 b. Death by auto or vessel is a crime of the third degree and,  
12 notwithstanding the provisions of N.J.S.2C:43-2, the court may not  
13 suspend the imposition of sentence on any defendant convicted under  
14 this section, who was operating the auto or vessel under the influence  
15 of an intoxicating liquor, narcotic, hallucinogenic or habit-producing  
16 drug, or with a blood alcohol concentration of 0.10% or more by  
17 weight of alcohol in his blood and any sentence imposed under this  
18 section shall include either a fixed minimum term of 270 days'  
19 imprisonment, during which the defendant shall be ineligible for parole,  
20 or a requirement that the defendant perform a community related  
21 service for a minimum of 270 days.

22 c. For good cause shown, the court may, in accepting a plea of  
23 guilty under this section, order that such plea not be evidential in any  
24 civil proceeding.

25 d. Nothing herein shall be deemed to preclude, if the evidence so  
26 warrants, an indictment and conviction for manslaughter under the  
27 provisions of N.J.S.2C:11-4. If an indictment for manslaughter is  
28 brought in a case involving the operation of a motor vehicle or vessel,  
29 death by auto or vessel shall be considered a lesser-included offense.

30 e. Death by auto or vessel is a crime of the first degree when it is  
31 caused by a defendant who was operating an auto or vessel under the  
32 influence of an intoxicating liquor, narcotic, hallucinogenic or

**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 habit-producing drug or with a blood alcohol concentration of 0.10%  
2 or more by weight of alcohol in his blood and who was previously  
3 convicted of operating an auto or vessel under the influence of an  
4 intoxicating liquor, narcotic, hallucinogenic or habit-producing drug  
5 or with a blood alcohol concentration of 0.10% or more by weight of  
6 alcohol in his blood or of a violation of R.S.39:4-50.

7 As used in this section, "auto or vessel" means all means of  
8 conveyance propelled otherwise than by muscular power.  
9 (cf: P.L.1991, c.237, s.1)

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11 2. This act shall take effect six months after enactment.

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STATEMENT

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16 This bill is intended to reduce the number of deaths on the highways  
17 of this State by imposing severe penalties on chronic offenders who  
18 cause the death of innocent victims. Under the provisions of this bill,  
19 death by auto or vessel, normally a third degree crime, would be  
20 upgraded to a first degree crime if the operator was driving under the  
21 influence of alcohol and had been previously convicted of drunk  
22 driving.

23 The present sentence for death by auto or vessel is three to five  
24 years imprisonment, up to \$7,500 fine, or both, with a requirement  
25 that the person who was operating an auto or vessel while under the  
26 influence serve at least 270 days imprisonment, during which there is  
27 no eligibility for parole, or that the defendant perform a community  
28 related service for a minimum of 270 days with no eligibility for  
29 parole. Under this bill, a repeat drunk driving offender who causes  
30 death by auto or vessel would be subject to a 10 to 20 year prison  
31 term, up to \$100,000 fine, or both.

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36 Upgrades death by auto or vessel to first degree crime in certain  
37 circumstances.