

SENATE, No. 1908

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator KOSCO

1 AN ACT concerning certain theft and vandalism, amending
2 N.J.S.2C:17-3, P.L.1991, c.335 and P.L.1938, c.48, supplementing
3 Title 2C of the New Jersey Statutes and repealing section 6 of
4 P.L.1941, c.345.

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

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9 1. N.J.S.2C:17-3 is amended to read as follows:

10 2C:17-3. Criminal Mischief. a. Offense defined. A person is guilty
11 of criminal mischief if he:

12 (1) Purposely or knowingly damages tangible property of another
13 or damages tangible property of another recklessly or negligently in
14 the employment of fire, explosives or other dangerous means listed in
15 subsection a. of N.J.S.2C:17-2; or

16 (2) Purposely or recklessly tampers with tangible property of
17 another so as to endanger person or property.

18 b. Grading. (1) Criminal mischief is a crime of the third degree if
19 the actor purposely causes pecuniary loss of \$2,000.00 or more, or a
20 substantial interruption or impairment of public communication,
21 transportation[(including, but not limited to, the defacement, injury
22 or removal of an official traffic sign or signal)], supply of water, gas
23 or power, or other public service.

24 (2) Criminal mischief is a crime of the fourth degree if the actor
25 causes pecuniary loss in excess of \$500.00 but less than \$2,000.00, or
26 a disorderly persons offense if he causes pecuniary loss of \$500.00 or
27 less.

28 (3) Criminal mischief is a crime of the third degree if the actor
29 damages, defaces, eradicates, alters, receives, releases or causes the
30 loss of any research property used by the research facility, or
31 otherwise causes physical disruption to the functioning of the research
32 facility. The term "physical disruption" does not include any lawful
33 activity that results from public, governmental, or research facility

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 employee reaction to the disclosure of information about the research
2 facility.

3 (4) Criminal mischief is a crime of the fourth degree if the actor
4 damages, removes or impairs the operation of any device, including,
5 but not limited to, a sign, signal, light or other equipment, which
6 serves to regulate or ensure the safety of air traffic at any airport,
7 landing field, landing strip, heliport, helistop or any other aviation
8 facility; however, if the damage, removal or impediment of the device
9 causes bodily injury or damage to property, the actor is guilty of a
10 crime of the third degree, or if it causes a death, the actor is guilty of
11 a crime of the second degree.

12 c. A person convicted of an offense of criminal mischief that
13 involves an act of graffiti may, in addition to any other penalty
14 imposed by the court, be required to pay to the owner of the damaged
15 property monetary restitution in the amount of the pecuniary damage
16 caused by the act of graffiti and to perform community service, which
17 shall include removing the graffiti from the property, if appropriate.
18 If community service is ordered, it shall be for either not less than 20
19 days or not less than the number of days necessary to remove the
20 graffiti from the property.

21 d. As used in this section:

22 (1) "Act of graffiti" means the drawing, painting or making of any
23 mark or inscription on public or private real or personal property
24 without the permission of the owner.

25 (2) "Spray paint" means any paint or pigmented substance that is
26 in an aerosol or similar spray container.

27 (cf: P.L.1995, c.251, s.1)

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29 2. Section 1 of P.L.1991,c.335 (C.2C:33-14.1) is amended to read
30 as follows:

31 1. Any person who purposely, knowingly or recklessly defaces,
32 damages, obstructs or otherwise impairs the operation of any railroad
33 crossing warning signal or protection device, including, but not limited
34 to safety gates, electric bell, electric sign or any other alarm or
35 protection system authorized by the Commissioner of Transportation,
36 which is required under the provisions of R.S.48:12-54 or
37 R.S.48:2-29, shall, for a first offense, be guilty of a [disorderly persons
38 offense] crime of the fourth degree; however, if the defacement,
39 damage, obstruction or impediment of the crossing warning signal or
40 protection device causes bodily injury or damage to property, the actor
41 is guilty of a crime of the third degree, or if it causes a death, the actor
42 is guilty of a crime of the second degree. [For any subsequent
43 violation of this act, the offender shall be guilty of a crime of the
44 fourth degree.]

45 (cf: P.L.1991, c.335)

1 3. Section 30 of P.L.1938, c.48 (C.6:1-49) is amended to read as
2 follows:

3 30. Malicious interference with aviation facilities.

4 Any person who shall [willfully and maliciously] knowingly
5 interfere or tamper with any airport, landing field, landing strip,
6 heliport, helistop, or any other aviation facility[, or the equipment
7 thereof, shall be] is guilty of a [misdemeanor] crime of the fourth
8 degree; however, if the interference or tampering with the airport,
9 landing field, landing strip, heliport, helistop or other aviation facility
10 causes bodily injury or damage to property, the actor is guilty of a
11 crime of the third degree, or if it causes a death, the actor is guilty of
12 a crime of the second degree.

13 (cf: P.L.1971, c.118, s.5)

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15 4. (New section) A person who purposely, knowingly, recklessly
16 or negligently defaces, injures or removes an official traffic sign or
17 signal described in Title 39 of the Revised Statutes is guilty of a
18 disorderly persons offense.

19 If a juvenile who is adjudicated delinquent for an act which, if
20 committed by an adult, would constitute a violation of this section is
21 assessed a fine and the court determines that the juvenile is unable to
22 pay the fine, the juvenile's parents or legal guardian shall be
23 responsible for the imposed fine.

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25 5. Section 6 of P.L.1941, c.345 (C.39:4-183.5) is hereby repealed.

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27 6. This act shall take effect immediately.

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STATEMENT

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32 This bill would upgrade the offense of stealing, vandalizing or
33 damaging safety devices, such as signs and signals, at airports, on
34 roadways, and at railroad crossings.

35 Although these acts have potentially deadly consequences, current
36 law often allows offenders to be treated lightly. For example, a person
37 who creates an incalculable risk of danger by stealing light bulbs from
38 the light fixtures at an airport landing strip is guilty of only a
39 disorderly persons offense, "criminal mischief" (N.J.S.A.2C:17-3), if
40 the actual monetary loss he causes is less than \$500. Similarly, a
41 person who steals or damages a traffic sign or traffic signal is guilty
42 only of a minor offense, equivalent to a petty disorderly persons
43 offense, for "damaging or removing traffic signs or signals" pursuant
44 to N.J.S.A.39:4-183.5, as long as that person did not "purposely"
45 cause a "substantial interruption or impairment of public
46 transportation."

1 By contrast, a person who does *purposely* cause a *substantial*
2 interruption or impairment of public transportation is guilty of a crime
3 of the third degree pursuant to N.J.S.A.2C:17-3, but the difficulty of
4 proving this level of intent makes convictions rare. Under the bill,
5 however, convictions would be easier to obtain, since the bill changes
6 the level of intent needed for conviction from "purposely" to
7 "knowingly." The bill provides that it would be a crime of the fourth
8 degree to knowingly remove or deface an official sign, signal or other
9 equipment at an airport, roadway, or railroad crossing. If the person's
10 actions cause bodily injury or property damage, the person would be
11 guilty of a crime of the third degree; if the person's actions cause a
12 death, the person would be guilty of a crime of the second degree.
13 Thus, under the bill, the person who steals light bulbs from the light
14 fixtures at an airport landing strip would be guilty of, at least, a crime
15 of the fourth degree (rather than a disorderly persons offense, as is the
16 case under current law.)

17 The bill also repeals N.J.S.A.39:4-183.5, replacing it with a
18 provision in Title 2C, the Criminal Code, which would make it a
19 disorderly persons offense to damage or remove a traffic sign or signal
20 recklessly or negligently. A disorderly persons offense is punishable
21 by a term of imprisonment of up to six months or a fine of up to
22 \$1,000, or both.

23 The bill also upgrades the offense of interfering or tampering with
24 airports, landing fields or similar facilities. Currently this offense is the
25 equivalent of a crime of the fourth degree. Under the bill, the offense
26 would remain a crime of the fourth degree if no injury or property
27 damage results, but would constitute a crime of the third degree if an
28 injury or property damage results and a crime of the second degree if
29 a death results.

30 A crime of the fourth degree is punishable by a term of
31 imprisonment of up to 18 months or a fine of up to \$7,500 or both; a
32 crime of the third degree, by a term of imprisonment of up to three to
33 five years or a fine of up to \$7,500 or both; and a crime of the second
34 degree, by a term of imprisonment of up to five to ten years or a fine
35 of up to \$100,000 or both.

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41 Increases penalties for stealing or damaging airport, traffic, or railroad
crossing signs or equipment.