

SENATE, No. 2108

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1997

By Senator BUBBA

1 AN ACT concerning the use of certain devices and supplementing Title
2 2C of the New Jersey Statutes.

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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. Booby traps in Manufacturing or Distribution Facilities;
8 Fortified Premises.

9 a. As used in this section:

10 (1) "Booby trap" means any concealed or camouflaged device
11 designed or reasonably likely to cause bodily injury when triggered by
12 the action of a person entering a property or building or any portion
13 thereof, or moving on the property or in the building, or by the action
14 of another person. The term includes, but is not limited to, firearms,
15 ammunition or destructive devices activated by a trip wire or other
16 triggering mechanism, sharpened stakes, traps, and lines or wires with
17 hooks, weights or other objects attached.

18 (2) "Structure" means any building, room, ship, vessel or airplane
19 and also means any place adapted for overnight accommodation of
20 persons, or for carrying on business therein, whether or not the person
21 is actually present.

22 b. Any person who knowingly assembles, maintains, places or
23 causes to be placed a booby trap on property used for the
24 manufacture, distribution, dispensing, or possession or control with
25 intent to manufacture, distribute or dispense, controlled dangerous
26 substances in violation of this chapter shall be guilty of a crime of the
27 second degree. If the booby trap causes bodily injury to any person,
28 the defendant shall be guilty of a crime of the first degree.

29 It shall not be a defense that the device was inoperable or was not
30 actually triggered, or that its existence or location was known to a
31 law enforcement officer or another person.

32 c. Any person who fortifies or maintains in a fortified condition a
33 structure for the manufacture, distribution, dispensing or possession
34 or control with intent to manufacture, distribute or dispense,
35 controlled dangerous substances, or who violates sections 3, 4, 5, 6 or
36 7 of chapter 35 in a structure which he owns, leases, occupies or
37 controls, and which has been fortified, is guilty of a crime of the third

1 degree. A structure has been fortified if steel doors, wooden planking,
2 cross bars, alarm systems, dogs, lookouts or any other means are
3 employed to prevent, impede, delay or provide warning of the entry
4 into a structure or any part of a structure by law enforcement officers.

5 d. A booby trap or fortification is maintained if it remains on
6 property or in a structure while the property or structure is owned,
7 occupied, controlled or used by the defendant.

8 e. Nothing herein shall be deemed to preclude, if the evidence so
9 warrants, an indictment and conviction for a violation of chapters 11,
10 12, 17, and 39 of this title, or any other law. Notwithstanding the
11 provisions of N.J.S.2C:1-8, N.J.S.2C:44-5 or any other provisions of
12 law, a conviction arising under this section shall not merge with a
13 conviction for a violation of any section of chapter 35 of Title 2C of
14 the New Jersey Statutes, or for conspiring or attempting to violate
15 any section of chapter 35 of Title 2C of the New Jersey Statutes, and
16 the sentence imposed upon a violation of this section shall be ordered
17 to be served consecutively to that imposed for any other conviction
18 arising under any section of chapter 35 of Title 2C of the New Jersey
19 Statutes or for conspiracy or attempt to violate any section of chapter
20 35 of Title 2C of the New Jersey Statutes, unless the court, in
21 consideration of the character and circumstances of the defendant,
22 finds that imposition of consecutive sentences would be a serious
23 injustice which overrides the need to deter such conduct by others. If
24 the court does not impose a consecutive sentence, the sentence shall
25 not become final for 10 days in order to permit the appeal of such
26 sentence by the prosecution.

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28 2. This act shall take effect immediately.

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31 STATEMENT

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33 Police officers in New Jersey are confronted by devices that are
34 intended to impede and harm the officers as they attempt to execute
35 search warrants and arrest drug dealers.

36 This bill would make it a crime of the second degree for any person
37 to knowingly assemble, maintain, place or cause to be placed a booby
38 trap on property which is used for the manufacturing, dispensing, or
39 distributing of drugs. The crime of placing a booby trap would be
40 upgraded to a crime of the first degree if the booby trap causes bodily
41 injury.

42 In addition, the bill would make it a crime of the third degree for
43 any person to fortify or maintain in a fortified condition a structure in
44 which drugs are manufactured or distributed.

45 The bill also provides that the sentence imposed for violating the
46 provisions of the bill concerning booby trapping or fortifying be served

1 consecutively to any sentence for violating any other provision of
2 chapter 35 of Title 2C, unless imposing a consecutive sentence would
3 be a serious injustice outweighing the need to deter such conduct.

4 This bill embodies Recommendation No. 3 of the "Report to the
5 Governor by the Attorney General on the Need to Update The
6 Comprehensive Drug Reform Act of 1987", issued December 9, 1996.

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11 Prohibits the use of booby traps and fortification of structures under
12 certain circumstances.