

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 3006 and 3345

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED FEBRUARY 13, 2023

Sponsored by:

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District 36 (Bergen and Passaic)

Senator ANTHONY M. BUCCO

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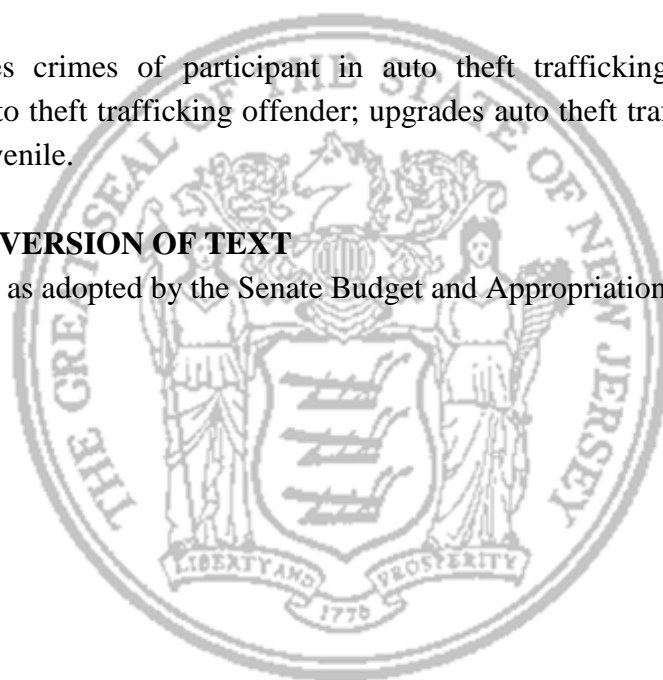
**Senators Sacco, Oroho, Corrado, O'Scanlon, Holzapfel, Bramnick,
Singleton, Madden, Singer, Schepisi and Gopal**

SYNOPSIS

Establishes crimes of participant in auto theft trafficking network and persistent auto theft trafficking offender; upgrades auto theft trafficking crimes involving juvenile.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



(Sponsorship Updated As Of: 6/20/2023)

1 AN ACT concerning automobile theft, amending P.L.1991, c.82, and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1991, c.82 (C.2C:20-18) is amended to read
8 as follows:

9 1. a. A person is a leader of an auto theft trafficking
10 network if **【he】** the person conspires with **【others】** one or more
11 other person as an organizer, supervisor, financier **【or】**, manager,
12 or recruiter to engage for profit or to commit criminal activity in a
13 scheme or course of conduct to unlawfully take, dispose of,
14 distribute, bring into, or transport in this State automobiles or
15 automobile parts as stolen property. Leader of auto theft trafficking
16 network is a crime of the second degree. Notwithstanding the
17 provisions of subsection a. of N.J.S.2C:43-3, the court may impose
18 a fine not to exceed **【\$250,000.00】** \$250,000 or five times the retail
19 value of the automobiles or automobile parts seized at the time of
20 the arrest, whichever is greater.

21 b. Leader of an auto theft trafficking network is a crime of the
22 first degree if a person, while engaging in a course of conduct in
23 violation of subsection a. of this section, uses, solicits, directs,
24 hires, employs, or recruits a person 17 years of age or younger to
25 join or actively participate in the network. It shall be no defense to
26 a prosecution pursuant to this subsection that the actor mistakenly
27 believed that the person who the actor used, solicited, directed,
28 hired, employed, or recruited was older than 17 years of age, even if
29 such mistaken belief was reasonable. Notwithstanding the
30 provisions of subsection a. of N.J.S.2C:43-3, the court may impose
31 a fine not to exceed \$250,000 or five times the retail value of the
32 automobiles or automobile parts seized at the time of arrest,
33 whichever is greater.

34 c. A person is a participant in an auto theft trafficking network
35 if the person engages in or conspires with others in any capacity,
36 other than as a leader of an auto trafficking network pursuant to
37 subsection a. of this section, to engage for profit or to commit
38 criminal activity in a scheme or course of conduct to unlawfully
39 take, dispose of, distribute, bring into, or transport in this State
40 automobiles or automobile parts as stolen property. Participant in
41 auto theft trafficking network is a crime of the third degree.

42 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
43 3, the court may impose a fine for a violation of this subsection not
44 to exceed \$100,000 or five times the retail value of the automobiles
45 or automobile parts seized at the time of the arrest, whichever is
46 greater.

1 d. It is a crime of the second degree if a person who is at least
2 18 years of age is a participant in an auto theft trafficking network
3 in violation of subsection c. of this section and:

4 (a) knowingly uses, solicits, directs, hires, employs, or recruits a
5 person 17 years of age or younger to violate the provisions of
6 subsection c. of this section; or

7 (b) participates in an auto theft trafficking network that also
8 includes a person 17 years of age or younger who is a participant in
9 the network in violation of the provisions of subsection c. of this
10 section.

11 It shall be no defense to a prosecution pursuant to this subsection
12 that the actor did not know that an auto theft trafficking network
13 included a person 17 years of age or younger as a participant, or
14 mistakenly believed that the person who the actor used, solicited,
15 directed, hired, employed, or recruited was 18 years of age or older,
16 even if such mistaken belief was reasonable.

17 Notwithstanding the provisions of subsection a. of N.J.S.2C:43-
18 3, the court may impose a fine for a violation of this subsection not
19 to exceed \$100,000 or five times the retail value of the automobiles
20 or automobile parts seized at the time of the arrest, whichever is
21 greater.

22 e. Notwithstanding the provisions of N.J.S.2C:1-8, a conviction
23 of leader of auto theft trafficking network or participant in auto
24 theft trafficking network shall not merge with the conviction for any
25 offense which is the object of the conspiracy. Nothing contained in
26 this act shall prohibit the court from imposing an extended term
27 pursuant to N.J.S.2C:43-7; nor shall this act be construed in any
28 way to preclude or limit the prosecution or conviction of any person
29 for conspiracy under N.J.S.2C:5-2, or any prosecution or conviction
30 for any other offense.

31 f. It shall not be necessary in any prosecution under this act for
32 the State to prove that any intended profit was actually realized. The
33 trier of fact may infer that a particular scheme or course of conduct
34 was undertaken for profit from all of the attending circumstances,
35 including but not limited to the number of persons involved in the
36 scheme or course of conduct, the actor's net worth and [his]
37 expenditures in relation to [his] the actor's legitimate sources of
38 income, the number of automobiles or automobile parts involved, or
39 the amount of cash or currency involved.

40 g. It shall not be a defense to a prosecution under this act that
41 the automobile or automobile part was brought into or transported
42 in this State solely for ultimate distribution in another jurisdiction;
43 nor shall it be a defense that any profit was intended to be made in
44 another jurisdiction.

45 (cf: P.L.1991, c.82, s.1)

46
47 2. (New section) Persistent auto theft trafficking offender
48 sentencing.

1 a. Upon request of the prosecutor, a person who has been
2 convicted of a crime of leader of an auto theft trafficking network
3 or participant in an auto theft trafficking network pursuant to
4 section 1 of P.L.1991, c.82 (C.2C:20-18) shall be sentenced to an
5 extended term of imprisonment pursuant to N.J.S.2C:43-7 if the
6 person has previously been convicted on two or more prior and
7 separate occasions, regardless of the dates of the convictions, of a
8 crime pursuant to section 1 of P.L.1991, c.82 (C.2C:20-18), or a
9 crime under any statute of the United States, this State, or any other
10 state that is substantially equivalent to any of the crimes enumerated
11 in section 1 of P.L.1991, c.82 (C.2C:20-18).

12 b. The provisions of this section shall not apply unless the prior
13 convictions are for crimes committed on a separate occasion and the
14 crime for which the defendant is being sentenced was committed
15 either:

16 (1) within 10 years of the date of the defendant's last release
17 from confinement for the commission of any crime; or

18 (2) within 10 years of the date of the commission of the most
19 recent of the crimes enumerated in subsection a. of this section for
20 which the defendant has a prior conviction.

21 c. The court shall not impose a sentence of imprisonment
22 pursuant to this section, unless the ground therefor has been
23 established at a hearing after the conviction of the defendant and on
24 written notice to the defendant of the ground proposed. The
25 defendant shall have the right to hear and controvert the evidence
26 against him and to offer evidence upon the issue. Prior convictions
27 shall be defined and proven in accordance with N.J.S.2C:44-4.

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29 3. This act shall take effect immediately.