

SENATE, No. 3389

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 15, 2022

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Co-Sponsored by:

**Senators A.M.Bucco, Greenstein, Bramnick, O'Scanlon, Singer and
Madden**

SYNOPSIS

Establishes crimes of theft of motor vehicle and receiving stolen motor vehicle as separate statutory provisions; provides extended sentences for certain persistent offenders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2023)

1 AN ACT concerning theft of and receiving a stolen motor vehicle,
2 supplementing Title 2C of the New Jersey Statutes, and
3 amending various parts of the statutory law.
4

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

8 1. (New section) Theft of a motor vehicle. a. A person
9 commits the crime of theft of a motor vehicle if the person unlawfully
10 takes, or exercises unlawful control over, another person's motor
11 vehicle with the purpose to deprive that person of the motor vehicle.

12 b. Theft of a motor vehicle constitutes a crime of the second
13 degree if the value of the motor vehicle involved is \$75,000 or more
14 or if the theft involved more than one motor vehicle, otherwise it is
15 a crime of the third degree.

16 c. The value of the motor vehicle involved in the theft shall be
17 determined by the trier of fact. The amount shall include, but not
18 be limited to, the amount of any State tax avoided, evaded, or
19 otherwise unpaid, or improperly retained or disposed of. Amounts
20 involved in thefts of motor vehicles committed pursuant to one
21 scheme or course of conduct, whether from the same person or
22 several persons, may be aggregated in determining the grade of the
23 offense.
24

25 2. (New section) a. Receiving a stolen motor vehicle. A
26 person is guilty of receiving a stolen motor vehicle if the person
27 knowingly receives or brings into this State a motor vehicle that is
28 the property of another knowing that it has been stolen, or believing
29 that it is probably stolen. Receiving a stolen motor vehicle is a
30 crime of the second degree if the value of the motor vehicle is
31 \$75,000 or more, otherwise it is a crime of the third degree.

32 b. It is an affirmative defense that the property was received
33 with the purpose to restore it to the owner.

34 c. Permissive inference. The requisite knowledge or belief
35 may be inferred in the case of a person who:

36 (1) is found in possession or control of two or more motor
37 vehicles stolen on two or more separate occasions; or

38 (2) has received a stolen motor vehicle in another transaction
39 within the year preceding the transaction charged; or

40 (3) being a person in the business of buying or selling motor
41 vehicles, acquires the motor vehicle without having ascertained by
42 reasonable inquiry that the person from whom it was obtained had a
43 legal right to possess and dispose of it; or

44 (4) is found in possession of a motor vehicle without proper
45 documentation or other evidence of right to possession.

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

Matter underlined thus is new matter.

1 For the purposes of this section, “receiving” means acquiring
2 possession, control or title, or lending on the security of the motor
3 vehicle.

4
5 3. (New section) Persistent stolen motor vehicle offender
6 sentencing.

7 a. Upon request of the prosecutor, a person who has been
8 convicted of a crime pursuant to section 1 or 2 of
9 P.L. , c. (C.) (pending before the Legislature as this bill) or
10 carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2)
11 shall be sentenced to an extended term of imprisonment pursuant to
12 N.J.S.2C:43-7 if the person has previously been convicted on two or
13 more prior and separate occasions, regardless of the dates of the
14 convictions, of a crime pursuant to section 1 or 2 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 carjacking pursuant to section 1 of P.L.1993, c.221 (C.2C:15-2),
17 theft or unlawful taking of a motor vehicle, receiving stolen
18 property where the property involved is a motor vehicle, or a crime
19 under any statute of the United States, this State, or any other state
20 for a crime that is substantially equivalent to any of the crimes
21 enumerated in this subsection.

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

26 (1) within 10 years of the date of the defendant’s last release
27 from confinement for the commission of any crime; or

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

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

38
39 4. N.J.S.2C:20-2 is amended to read as follows:

40 2C:20-2. a. Consolidation of Theft and Computer Criminal
41 Activity Offenses. Conduct denominated theft or computer
42 criminal activity in this chapter constitutes a single offense, but
43 each episode or transaction may be the subject of a separate
44 prosecution and conviction. A charge of theft or computer criminal
45 activity may be supported by evidence that it was committed in any
46 manner that would be theft or computer criminal activity under this
47 chapter, notwithstanding the specification of a different manner in
48 the indictment or accusation, subject only to the power of the court

1 to ensure fair trial by granting a bill of particulars, discovery, a
2 continuance, or other appropriate relief where the conduct of the
3 defense would be prejudiced by lack of fair notice or by surprise.

4 b. Grading of theft offenses.

5 (1) Theft constitutes a crime of the second degree if:

6 (a) The amount involved is \$75,000 or more;

7 (b) The property is taken by extortion;

8 (c) The property stolen is a controlled dangerous substance or
9 controlled substance analog as defined in N.J.S.2C:35-2 and the
10 quantity is in excess of one kilogram;

11 (d) The property stolen is a person's benefits under federal or
12 State law, or from any other source, which the Department of
13 Human Services or an agency acting on its behalf has budgeted for
14 the person's health care and the amount involved is \$75,000 or
15 more;

16 (e) The property stolen is human remains or any part thereof;
17 except that, if the human remains are stolen by deception or
18 falsification of a document by which a gift of all or part of a human
19 body may be made pursuant to P.L.2008, c.50 (C.26:6-77 et al.), the
20 theft constitutes a crime of the first degree; or

21 (f) It is in breach of an obligation by a person in his capacity as
22 a fiduciary and the amount involved is \$50,000 or more.

23 (2) Theft constitutes a crime of the third degree if:

24 (a) The amount involved exceeds \$500 but is less than \$75,000;

25 (b) The property stolen is a firearm, [motor vehicle,] vessel,
26 boat, horse, domestic companion animal or airplane;

27 (c) The property stolen is a controlled dangerous substance or
28 controlled substance analog as defined in N.J.S.2C:35-2 and the
29 amount involved is less than \$75,000 or is undetermined and the
30 quantity is one kilogram or less;

31 (d) It is from the person of the victim;

32 (e) It is in breach of an obligation by a person in his capacity as
33 a fiduciary and the amount involved is less than \$50,000;

34 (f) It is by threat not amounting to extortion;

35 (g) It is of a public record, writing or instrument kept, filed or
36 deposited according to law with or in the keeping of any public
37 office or public servant;

38 (h) The property stolen is a person's benefits under federal or
39 State law, or from any other source, which the Department of
40 Human Services or an agency acting on its behalf has budgeted for
41 the person's health care and the amount involved is less than
42 \$75,000;

43 (i) The property stolen is any real or personal property related
44 to, necessary for, or derived from research, regardless of value,
45 including, but not limited to, any sample, specimens and
46 components thereof, research subject, including any warm-blooded
47 or cold-blooded animals being used for research or intended for use
48 in research, supplies, records, data or test results, prototypes or

1 equipment, as well as any proprietary information or other type of
2 information related to research;

3 (j) The property stolen is a New Jersey Prescription Blank as
4 referred to in R.S.45:14-14;

5 (k) The property stolen consists of an access device or a defaced
6 access device;

7 (l) The property stolen consists of anhydrous ammonia and the
8 actor intends it to be used to manufacture methamphetamine; or

9 (m) The property stolen consists of a package delivered to a
10 residential property by a cargo carrier and the amount involved is
11 less than \$75,000 or is undetermined.

12 (3) Theft constitutes a crime of the fourth degree if the amount
13 involved is at least \$200 but does not exceed \$500.

14 (4) Theft constitutes a disorderly persons offense if:

15 (a) The amount involved was less than \$200; or

16 (b) The property stolen is an electronic vehicle identification
17 system transponder.

18 The amount involved in a theft or computer criminal activity
19 shall be determined by the trier of fact. The amount shall include,
20 but shall not be limited to, the amount of any State tax avoided,
21 evaded or otherwise unpaid, improperly retained or disposed of.
22 Amounts involved in thefts, thefts of motor vehicles, or computer
23 criminal activities committed pursuant to one scheme or course of
24 conduct, whether from the same person or several persons, may be
25 aggregated in determining the grade of the offense.

26 c. Claim of right. It is an affirmative defense to prosecution
27 for theft that the actor:

28 (1) Was unaware that the property or service was that of
29 another;

30 (2) Acted under an honest claim of right to the property or
31 service involved or that he had a right to acquire or dispose of it as
32 he did; or

33 (3) Took property exposed for sale, intending to purchase and
34 pay for it promptly, or reasonably believing that the owner, if
35 present, would have consented.

36 d. Theft from spouse. It is no defense that theft or computer
37 criminal activity was from or committed against the actor's spouse,
38 except that misappropriation of household and personal effects, or
39 other property normally accessible to both spouses, is theft or
40 computer criminal activity only if it occurs after the parties have
41 ceased living together.

42 (cf: P.L.2021, c.448, s.1)

43

44 5. N.J.S.2C:20-7 is amended to read as follows:

45 2C:20-7. Receiving Stolen Property.

46 a. Receiving. A person is guilty of theft if he knowingly
47 receives or brings into this State movable property, other than a
48 motor vehicle, of another knowing that it has been stolen, or

believing that it is probably stolen. It is an affirmative defense that the property was received with purpose to restore it to the owner. "Receiving" means acquiring possession, control or title, or lending on the security of the property.

b. **【Presumption of knowledge.】** Permissive inference. The requisite knowledge or belief **【is presumed】** may be inferred in the case of a person who:

(1) Is found in possession or control of two or more items of property stolen on two or more separate occasions; or

(2) Has received stolen property in another transaction within the year preceding the transaction charged; or

(3) Being a person in the business of buying or selling property of the sort received, acquires the property without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess and dispose of it; or

(4) Is found in possession of two or more defaced access devices; or

(5) Is found in possession of property of a cargo carrier without proper documentation or other evidence of right to possession.

(cf: P.L.2013, c.58, s.3)

6. Section 3 of P.L.1989, c.331 (C.34:8-44) is amended to read as follows:

3. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the chief stating whether or not the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes as amended and supplemented, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-1, 2C:20-2, 2C:20-4, 2C:20-5, 2C:20-7, section 1 or 2 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill), 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, or 2C:37-1 through 2C:37-4.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying licensure or registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1

1 et seq.) apply, the director shall comply with the requirements of
2 that act.

3 c. An applicant who is denied licensure or registration pursuant
4 to this section shall, upon a written request transmitted to the
5 director within 30 calendar days of the denial, be afforded an
6 opportunity for a hearing in the manner provided for contested
7 cases pursuant to the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.).

9 d. An applicant shall have the continuing duty to provide any
10 assistance or information requested by the director, and to cooperate
11 in any inquiry, investigation, or hearing conducted by the director.

12 e. If any of the information required to be included in the
13 disclosure statement changes, or if any additional information
14 should be added after the filing of the statement, the applicant shall
15 provide that information to the chief, in writing, within 30 calendar
16 days of the change or addition.

17 (cf: P.L.1989, c.331, s.3)

18

19 7. Section 9 of P.L.1939, c.369 (C.45:19-16) is amended to
20 read as follows:

21 9. No holder of any unexpired license issued pursuant to this
22 act shall knowingly employ in connection with his or its business in
23 any capacity whatsoever, any person who has been convicted of a
24 high misdemeanor or any of the following misdemeanors, or
25 offenses, and who has not subsequent to such conviction received
26 executive pardon therefor removing any civil disabilities incurred
27 thereby, to wit:

28 (a) illegally using, carrying or possessing a pistol or other
29 dangerous weapon;

30 (b) making or possessing burglar's instruments;

31 (c) buying or receiving stolen property or a stolen motor
32 vehicle;

33 (d) unlawful entry of a building;

34 (e) aiding escape from prison;

35 (f) unlawfully possessing or distributing habit-forming narcotic
36 drugs;

37 (g) any person whose private detective or investigator's license
38 was revoked or application for such license was denied by the
39 superintendent or by the authorities of any other State or territory
40 because of conviction of any of the crimes or offenses specified in
41 this section. Should the holder of an unexpired license falsely state
42 or represent that a person is or has been in his employ, such false
43 statement or misrepresentation shall be sufficient cause for the
44 revocation of such license.

45 No person shall be employed by any holder of a license until he
46 shall have executed and furnished to such license holder a verified
47 statement, to be known as "employee's statement," setting forth:

1 (a) His full name, age, residence address, and place of and date
2 of birth.

3 (b) The country of which he is a citizen.

4 (c) The business or occupation engaged in for the five years
5 immediately preceding the date of the filing of the statement,
6 setting forth the place or places where such business or occupation
7 was engaged in, and the name or names of employers, if any.

8 (d) That he has not been convicted of a high misdemeanor or of
9 any offense involving moral turpitude or of any of the
10 misdemeanors or offenses described in this section.

11 (e) Such further information as the superintendent may by rule
12 require to show the good character, competency, and integrity of the
13 person executing the statement.

14 The employee shall submit to the Superintendent of State Police
15 the employee's name, address, fingerprints and written consent for a
16 criminal history background check to be performed. The
17 superintendent is hereby authorized to exchange fingerprint data
18 with and receive criminal history record information from the State
19 Bureau of Identification in the Division of State Police and the
20 Federal Bureau of Investigation consistent with applicable State and
21 federal laws, rules and regulations. The applicant shall bear the
22 cost for the criminal history background check, including all costs
23 of administering and processing the check. If the superintendent
24 finds that such person has been convicted of a first, second or third
25 degree crime, or any other offense specified in this section, he shall
26 immediately notify the holder of such license and shall also refer
27 the matter to the prosecutor of the pleas of the county in which the
28 employee resides. The superintendent may also from time to time
29 cause such fingerprints to be checked against the fingerprints filed
30 with the State bureau of identification or of other official fingerprint
31 files within or without this State, and if he finds that such person
32 has been convicted of a high misdemeanor or any other offense
33 specified in this section he shall immediately notify the holder of
34 such license and shall also refer the matter to the prosecutor of the
35 pleas of the county in which the employee resides. The
36 superintendent shall at all times be given access to and may from
37 time to time examine the fingerprints retained by the holder of a
38 license as provided in this section.

39 If any holder of a license shall file with the superintendent the
40 fingerprints of a person other than the person so employed, he shall
41 be guilty of a misdemeanor.

42 (cf: P.L.2003, c.199, s.30)

43

44 8. Section 11 of P.L.1971, c.317 (52:4B-11) is amended to read
45 as follows:

46 11. The Victims of Crime Compensation Office may order the
47 payment of compensation in accordance with the provisions of

1 P.L.1971, c.317 (C.52:4B-1 et seq.) for personal injury or death
2 which resulted from:

3 a. an attempt to prevent the commission of crime or to arrest a
4 suspected criminal or in aiding or attempting to aid a police officer
5 to do so; or

6 b. the commission or attempt to commit any of the following
7 offenses:

8 (1) aggravated assault;
9 (2) (Deleted by amendment, P.L.1995, c.135).
10 (3) threats to do bodily harm;
11 (4) lewd, indecent, or obscene acts;
12 (5) indecent acts with children;
13 (6) kidnapping;
14 (7) murder;
15 (8) manslaughter;
16 (9) aggravated sexual assault, sexual assault, aggravated
17 criminal sexual contact, criminal sexual contact;
18 (10) any other crime involving violence including domestic
19 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
20 section 3 of P.L.1991, c.261 (C.2C:25-19);
21 (11) burglary;
22 (12) tampering with a cosmetic, drug or food product;
23 (13) a violation of human trafficking, section 1 of P.L.2005, c.77
24 (C.2C:13-8); or

25 c. the commission of a violation of R.S.39:4-50, section 5 of
26 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
27 (C.12:7-34.19), or section 3 of P.L.1952, c.157 (C.12:7-46); or

28 d. theft of an automobile pursuant to N.J.S.2C:20-2 or section 1
29 or 2 of P.L. , c. (C.) (pending before the Legislature as this
30 bill), eluding a law enforcement officer pursuant to subsection b. of
31 N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to
32 subsection b., c., or d. of N.J.S.2C:20-10 where injuries to the
33 victim occur in the course of operating an automobile in furtherance
34 of the offense; or

35 e. the commission of a violation of N.J.S.2C:16-1, bias
36 intimidation; or

37 f. simple assault pursuant to N.J.S.2C:12-1 or disorderly
38 conduct pursuant to N.J.S.2C:33-2; or

39 g. a motor vehicle accident resulting in injury or death where
40 the driver of the vehicle left the scene of the accident in violation of
41 R.S.39:4-129.
42 (cf: P.L.2019, c.380, s.7)

43

44 9. Section 6 of P.L.2017, c.324 (C.53:2-11) is amended to read
45 as follows:

46 6. a. A person shall not act as a pier superintendent or as a
47 hiring agent within the port of New York district in this State
48 without first having obtained from the division a license to act as a

1 pier superintendent or hiring agent, as the case may be, and a person
2 shall not employ or engage another person to act as a pier
3 superintendent or hiring agent who is not so licensed.

4 b. A license to act as a pier superintendent or hiring agent shall
5 be issued only upon the written application, under oath, of the
6 person proposing to employ or engage another person to act as a
7 pier superintendent or hiring agent, verified by the prospective
8 licensee as to the matters concerning the prospective licensee, and
9 shall state the following:

10 (1) The full name and business address of the applicant;

11 (2) The full name, residence, business address, if any, place and
12 date of birth, and social security number of the prospective licensee;

13 (3) The present and previous occupations of the prospective
14 licensee, including the places where the person was employed and
15 the names of the person's employers;

16 (4) Any further facts and evidence as may be required by the
17 division to ascertain the character, integrity, and identity of the
18 prospective licensee; and

19 (5) That if a license is issued to the prospective licensee, the
20 applicant will employ the licensee as pier superintendent or hiring
21 agent, as the case may be.

22 c. A license shall not be granted pursuant to this section:

23 (1) Unless the division shall be satisfied that the prospective
24 licensee possesses good character and integrity;

25 (2) If the prospective licensee has, without subsequent pardon,
26 been convicted by a court of the United States, or any State or
27 territory thereof, of the commission of, or the attempt or conspiracy
28 to commit, treason, murder, manslaughter, or any of the following
29 offenses: illegally using, carrying, or possessing a pistol or other
30 dangerous weapon; making or possessing burglar's instruments;
31 buying or receiving stolen property or a stolen motor vehicle;
32 unlawful entry of a building; aiding an escape from prison;
33 unlawfully possessing, possessing with intent to distribute, sale, or
34 distribution of a controlled dangerous substance or a controlled
35 dangerous substance analog; or a violation prescribed in subsection
36 g. of this section. Any prospective licensee ineligible for a license
37 by reason of any conviction under this paragraph may submit
38 satisfactory evidence to the division that the prospective licensee
39 has for a period of not less than five years, measured as hereinafter
40 provided, and up to the time of application, so acted as to warrant
41 the grant of a license, in which event the division may, in its
42 discretion, issue an order removing that ineligibility. The five-year
43 period shall be measured either from the date of payment of any
44 fine imposed upon that person or the suspension of sentence or from
45 the date of the person's unrevoked release from custody by parole,
46 commutation, or termination of sentence; and

47 (3) If the prospective licensee knowingly or willfully advocates
48 the desirability of overthrowing or destroying the government of the

1 United States by force or violence or shall be a member of a group
2 which advocates that desirability, knowing the purposes of a group
3 having that advocacy.

4 d. When the application shall have been examined and further
5 inquiry and investigation made as the division shall deem proper
6 and when the division shall be satisfied therefrom that the
7 prospective licensee possesses the qualifications and requirements
8 prescribed in this section, the division shall issue and deliver to the
9 prospective licensee a license to act as pier superintendent or hiring
10 agent for the applicant, as the case may be, and shall inform the
11 applicant of this action. The division may issue a temporary permit
12 to any prospective licensee for a license issued under this section
13 pending final action on an application made for that license. Any
14 temporary permit shall be valid for a period not in excess of 30
15 days.

16 e. A person shall not be licensed to act as a pier superintendent
17 or hiring agent for more than one employer, except at a single pier
18 or other waterfront terminal, but nothing in P.L.2017, c.324
19 (C.32:23-229 et al.) shall be construed to limit in any way the
20 number of pier superintendents or hiring agents any employer may
21 employ.

22 f. A license granted pursuant to this section shall continue
23 through the duration of the licensee's employment by the employer
24 who shall have applied for the license.

25 g. Any license issued pursuant to this section may be revoked
26 or suspended for a period as the division deems in the public
27 interest or the licensee thereunder may be reprimanded for any of
28 the following offenses:

29 (1) Conviction of a crime or act by the licensee or other cause
30 which would require or permit the person's disqualification from
31 receiving a license upon original application;

32 (2) Fraud, deceit, or misrepresentation in securing the license, or
33 in the conduct of the licensed activity;

34 (3) Violation of any of the provisions of P.L.2017, c.324
35 (C.32:23-229 et al.);

36 (4) Unlawfully possessing, possessing with intent to distribute,
37 sale, or distribution of a controlled dangerous substance or a
38 controlled dangerous substance analog;

39 (5) Employing, hiring, or procuring any person in violation of
40 P.L.2017, c.324 (C.32:23-229 et al.) or inducing or otherwise aiding
41 or abetting any person to violate the terms of P.L.2017, c.324
42 (C.32:23-229 et al.);

43 (6) Paying, giving, causing to be paid or given or offering to pay
44 or give to any person any valuable consideration to induce the other
45 person to violate any provision of P.L.2017, c.324 (C.32:23-229 et
46 al.) or to induce any public officer, agent, or employee to fail to
47 perform the person's duty hereunder;

48 (7) Consorting with known criminals for an unlawful purpose;

- 1 (8) Transfer or surrender of possession of the license to any
2 person either temporarily or permanently without satisfactory
3 explanation;
- 4 (9) False impersonation of another licensee under P.L.2017,
5 c.324 (C.32:23-229 et al.);
- 6 (10) Receipt or solicitation of anything of value from any person
7 other than the licensee's employer as consideration for the selection
8 or retention for employment of any longshoreman;
- 9 (11) Coercion of a longshoreman by threat of discrimination or
10 violence or economic reprisal, to make purchases from or to utilize
11 the services of any person;
- 12 (12) Lending any money to or borrowing any money from a
13 longshoreman for which there is a charge of interest or other
14 consideration; or
- 15 (13) Membership in a labor organization which represents
16 longshoremen or port watchmen; but nothing in this section shall be
17 deemed to prohibit pier superintendents or hiring agents from being
18 represented by a labor organization or organizations which do not
19 also represent longshoremen or port watchmen. The American
20 Federation of Labor, the Congress of Industrial Organizations and
21 any other similar federation, congress, or other organization of
22 national or international occupational or industrial labor
23 organizations shall not be considered an organization which
24 represents longshoremen or port watchmen within the meaning of
25 this section although one of the federated or constituent labor
26 organizations thereof may represent longshoremen or port
27 watchmen.
- 28 (cf: P.L.2017, c.324, s.6)
- 29
- 30 10. Section 11 of P.L.2017, c.324 (C.53:2-16) is amended to
31 read as follows:
- 32 11. a. The division shall establish within the longshoremen's
33 register a list of all qualified longshoremen eligible, as hereinafter
34 provided, for employment as checkers in the port of New York
35 district in this State. A person shall not act as a checker within the
36 port of New York district in this State unless at the time the person
37 is included in the longshoremen's register as a checker, and a person
38 shall not employ another to work as a checker within the port of
39 New York district in this State unless at the time such other person
40 is included in the longshoremen's register as a checker.
- 41 b. Any person applying for inclusion in the longshoremen's
42 register as a checker shall file at a place and in a manner as the
43 division shall designate a written statement, signed, and verified by
44 the applicant, setting forth the following:
- 45 (1) The full name, residence, place and date of birth, and social
46 security number of the applicant;

1 (2) The present and previous occupations of the applicant,
2 including the places where the applicant was employed and the
3 names of the applicant's employers; and

4 (3) Any further facts and evidence as may be required by the
5 authority to ascertain the character, integrity, and identity of the
6 applicant.

7 c. A person shall not be included in the longshoremen's register
8 as a checker:

9 (1) Unless the division shall be satisfied that the applicant
10 possesses good character and integrity;

11 (2) If the applicant has, without subsequent pardon, been
12 convicted by a court of the United States or any State or territory
13 thereof, of the authority of, or the attempt or conspiracy to commit
14 treason, murder, manslaughter, or any of the following offenses:
15 illegally using, carrying or possessing a pistol or other dangerous
16 weapon; making or possessing burglar's instruments; buying or
17 receiving stolen property or a stolen motor vehicle; unlawful entry
18 of a building; aiding an escape from prison; unlawfully possessing,
19 possessing with intent to distribute, sale or distribution of a
20 controlled dangerous substance or a controlled dangerous substance
21 analog; petty larceny, where the evidence shows the property was
22 stolen from a vessel, pier or other waterfront terminal; or a violation
23 of P.L.2017, c.324 (C.32:23-229 et al.). An applicant ineligible for
24 inclusion in the longshoremen's register as a checker by reason of a
25 conviction may submit satisfactory evidence to the division that the
26 applicant has for a period of not less than five years, measured as
27 hereinafter provided, and up to the time of application, so acted as
28 to warrant inclusion in the longshoremen's register as a checker, in
29 which event the division may, in its discretion, issue an order
30 removing the applicant's ineligibility. The five-year period shall be
31 measured either from the date of payment of any fine imposed upon
32 that person or the suspension of sentence or from the date of the
33 person's unrevoked release from custody by parole, commutation, or
34 termination of sentence; or

35 (3) If the applicant knowingly or willfully advocates the
36 desirability of overthrowing or destroying the government of the
37 United States by force or violence or shall be a member of a group
38 which advocates that desirability, knowing the purposes of the
39 group advocating that desirability.

40 d. When the application shall have been examined and further
41 inquiry and investigation made as the division shall deem proper
42 and when the division shall be satisfied therefrom that the applicant
43 possesses the qualifications and requirements prescribed by this
44 section, the division shall include the applicant in the
45 longshoremen's register as a checker. The division may permit
46 temporary registration as a checker to any applicant under this
47 section pending final action on an application made for temporary
48 registration, under the terms and conditions as the division may

1 prescribe, which shall be valid for a period to be fixed by the
2 division, not in excess of six months.

3 e. The division shall have power to reprimand any checker
4 registered under this section or to remove the person from the
5 longshoremen's register as a checker for a period of time as the
6 division deems in the public interest for any of the following
7 offenses:

8 (1) Conviction of a crime or other cause which would permit
9 disqualification of the person from inclusion in the longshoremen's
10 register as a checker upon original application;

11 (2) Fraud, deceit, or misrepresentation in securing inclusion in
12 the longshoremen's register as a checker or in the conduct of the
13 registered activity;

14 (3) Violation of any of the provisions of P.L.2017, c.324
15 (C.32:23-229 et al.);

16 (4) Unlawfully possessing, possessing with intent to distribute,
17 sale, or distribution of a controlled dangerous substance or a
18 controlled dangerous substance analog;

19 (5) Inducing or otherwise aiding or abetting any person to
20 violate the terms of P.L.2017, c.324 (C.32:23-229 et al.);

21 (6) Paying, giving, causing to be paid or given, or offering to
22 pay or give to any person any valuable consideration to induce the
23 other person to violate any provision of P.L.2017, c.324 (C.32:23-
24 229 et al.) or to induce any public officer, agent, or employee to fail
25 to perform the person's duty under P.L.2017, c.324 (C.32:23-229 et
26 al.);

27 (7) Consorting with known criminals for an unlawful purpose;

28 (8) Transfer or surrender of possession to any person either
29 temporarily or permanently of any card or other means of
30 identification issued by the division as evidence of inclusion in the
31 longshoremen's register without satisfactory explanation; or

32 (9) False impersonation of another longshoreman or of another
33 person licensed under P.L.2017, c.324 (C.32:23-229 et al.).

34 f. The division shall have the right to recover possession of
35 any card or other means of identification issued as evidence of
36 inclusion in the longshoremen's register as a checker in the event
37 that the holder thereof has been removed from the longshoremen's
38 register as a checker.

39 g. Nothing contained in this section shall be construed to limit
40 in any way any rights of labor reserved by section 23 of P.L.2017,
41 c.324 (C.53:2-28).

42 (cf: P.L.2017, c.324, s.11)

43

44 11. Section 6 of P.L.2004, c.16 (C.56:8-141) is amended to read
45 as follows:

46 6. In addition to any other procedure, condition or information
47 required by this act:

1 a. Every applicant shall file a disclosure statement with the
2 director stating whether the applicant has been convicted of any
3 crime, which for the purposes of this act shall mean a violation of
4 any of the following provisions of the "New Jersey Code of
5 Criminal Justice," Title 2C of the New Jersey Statutes, or the
6 equivalent under the laws of any other jurisdiction:

7 (1) Any crime of the first degree;

8 (2) Any crime which is a second or third degree crime and is a
9 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
10 or

11 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-
12 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
13 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of
14 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, section 1 or 2 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12,
17 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of
18 the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-
19 10, 2C:37-1 through 2C:37-4.

20 b. The director may refuse to issue or may suspend or revoke
21 any registration issued by him upon proof that the applicant or
22 holder of the registration:

23 (1) Has obtained a registration through fraud, deception or
24 misrepresentation;

25 (2) Has engaged in the use or employment of dishonesty, fraud,
26 deception, misrepresentation, false promise or false pretense;

27 (3) Has engaged in gross negligence, gross malpractice or gross
28 incompetence;

29 (4) Has engaged in repeated acts of negligence, malpractice or
30 incompetence;

31 (5) Has engaged in professional or occupational misconduct as
32 may be determined by the director;

33 (6) Has been convicted of any crime involving moral turpitude
34 or any crime relating adversely to the activity regulated by this act.
35 For the purpose of this subsection a plea of guilty, non vult, nolo
36 contendere or any other such disposition of alleged criminal activity
37 shall be deemed a conviction;

38 (7) Has had his authority to engage in the activity regulated by
39 the director revoked or suspended by any other state, agency or
40 authority for reasons consistent with this section;

41 (8) Has violated or failed to comply with the provisions of any
42 act or regulation administered by the director;

43 (9) Is incapable, for medical or any other good cause, of
44 discharging the functions of a licensee in a manner consistent with
45 the public's health, safety and welfare.

46 c. An applicant whose registration is denied, suspended, or
47 revoked pursuant to this section shall, upon a written request
48 transmitted to the director within 30 calendar days of that action, be

afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the director clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

(cf: P.L.2004, c.16, s.6)

12. This act shall take effect immediately.

STATEMENT

This bill establishes separate statutory provisions for the crimes of theft of a motor vehicle and receiving a stolen motor vehicle, and provides for extended sentences for certain persistent offenders.

Under current law, the penalties for theft of a motor vehicle are set forth in the State's general statute consolidating theft and computer criminal activity offenses. Theft of a motor vehicle is a crime of the third degree, unless the value of the motor vehicle is

1 greater than \$75,000, in which case it is a crime of the second
2 degree. A crime of the third degree is punishable by three to five
3 years imprisonment, a fine of up to \$15,000, or both. A crime of
4 the second degree is punishable by a fine of up to \$150,000, a term
5 of imprisonment of five to 10 years, or both. The amended bill
6 establishes theft of a motor vehicle as a separate offense, which will
7 facilitate the tracking of motor vehicle theft crimes in this State.
8 The penalties for theft of a motor vehicle remain the same as under
9 current law with the exception that it is a crime of the second
10 degree if the theft involves more than one vehicle.

11 Under current law, receiving a stolen motor vehicle, punishable
12 under the general statute governing the receipt of stolen property, is
13 a crime of the third degree, unless the value of the vehicle is
14 \$75,000 or greater, in which case it is a crime of the second degree.
15 The bill establishes receiving a stolen motor vehicle as a separate
16 offense, which will also facilitate the tracking of crimes of
17 receiving stolen motor vehicles in this State.

18 Under the bill, a permissive inference may apply that a person
19 had knowledge or a belief that they received a stolen motor vehicle
20 in violation of the bill if the person: is found to be in possession or
21 control of two or more motor vehicles stolen on two or more
22 separate occasions; has received a stolen motor vehicle in another
23 transaction within the year preceding the transaction charged; being
24 a person in the business of buying or selling motor vehicles,
25 acquires the motor vehicle without having ascertained by reasonable
26 inquiry that the person from whom it was obtained had a legal right
27 to possess and dispose of it; or is found in possession of a motor
28 vehicle without proper documentation or other evidence of right to
29 possession.

30 Under the bill, a person is a persistent motor vehicle offender if a
31 person convicted of theft of a motor vehicle, receiving a stolen
32 motor vehicle, or carjacking has previously been convicted of one
33 of these crimes on two or more prior and separate occasions,
34 regardless of the dates of the convictions. A persistent offender
35 may be sentenced to an extended term, upon motion of the
36 prosecutor, if the prior conviction is for a crime committed on a
37 separate occasion and the crime for which the person is being
38 sentenced was committed either: within 10 years of the date of the
39 defendant's last release from confinement for commission of any
40 crime; or within 10 years of the date of the commission of the most
41 recent of the crimes enumerated in the bill for which the defendant
42 has a prior conviction.

43 In addition, the bill updates the statutory provisions addressing
44 the crime of receiving stolen property to also reference the crime of
45 receiving a stolen motor vehicle set out in the amended bill.