

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3389

STATE OF NEW JERSEY

DATED: DECEMBER 19, 2022

The Senate Judiciary Committee reports favorably Senate Bill No. 3389.

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

Under current law, the theft of a motor vehicle is included in the State's general statute consolidating theft and computer criminal activity offenses. See N.J.S.2C:20-2. Theft of a motor vehicle is a crime of the third degree, unless the value of the motor vehicle is \$75,000 or more, in which case it is a crime of the second degree. See Id. at subsection b., paragraph (1), subparagraph (a) and paragraph (2), subparagraph (b). A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both.

The bill establishes theft of a motor vehicle as a separately allocated crime, apart from the general theft statute. The grading of the newly allocated crime would generally remain the same as under current law, so a theft of a motor vehicle valued at \$75,000 or more could be upgraded to a second-degree crime, but, unlike the current law, it would be a crime of the second degree if the theft involves more than one vehicle, regardless of the total value of the vehicles. As with the general theft statute, the determination of the amount involved in a motor vehicle theft, if a factor, would be determined by the trier of fact.

Regarding the crime of knowingly receiving a stolen motor vehicle, like the general theft statute, the general crime of knowingly receiving stolen property includes receiving a stolen motor vehicle. See N.J.S.2C:20-7. This crime is graded in the same manner as the crime of theft, meaning receiving a stolen motor vehicle is a crime of the third degree, but is a crime of the second degree if the motor vehicle is valued at \$75,000 or more. As with the new standalone allocation for theft of a motor vehicle, the bill establishes knowingly receiving a stolen motor vehicle as a separately allocated crime, to be graded in the same manner as

currently graded, with the \$75,000 threshold establishing the higher degree of crime.

Concerning the requisite knowledge regarding the stolen vehicle, the current law provides for a legal presumption of knowledge when a person: is found to be in possession or control of two or more items of property, stolen on two or more separate occasions; has received a stolen property in another transaction within the year preceding the transaction charged; or being a person in the business of buying or selling property of the sort received (motor vehicles), acquires the property without having ascertained by reasonable inquiry that the person from whom it was obtained had a legal right to possess and dispose of it. This current presumption is renamed as a permissive inference, permitting an inference on the above stated factors, as well as two others not necessarily related to motor vehicles: the person is found in possession of two or more defaced access devices; and the person is found in possession of property of a cargo carrier without proper documentation or other evidence of right of possession.

The same legal inferences for knowledge would apply to the separately allocated crime of receiving a stolen motor vehicle, but would be specifically applicable to activities related to motor vehicles and not items of property generally, and would additionally create an inference for being in possession of a motor vehicle without proper documentation or other evidence of right of possession (based on the current law's presumption concerning property of a cargo carrier).

The bill would also provide for an extended sentence for a "persistent stolen motor vehicle offender." The bill establishes this person as someone convicted for the newly allocated crime of theft of a motor vehicle or knowingly receiving a motor vehicle, or for carjacking under section 1 of P.L.1993, c.221 (C.2C:15-2) (generally, the unlawful taking by means of violence or threats of violence, or the person inside the vehicle remains inside at the time of the taking), who also has been previous convicted on two or more prior and separate occasions for one or more of those crimes, or any substantially equivalent crime in this State, another state, or the United States, regardless of the dates of the previous convictions.

The prosecutor could make a motion regarding the persistent offender, resulting in the person being sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7. Generally, an extended term for a second-degree theft or receiving crime would be between 10 and 20 years (instead of the ordinary five to 10 years), and an extended term for a third-degree theft or receiving crime would be five to 10 years (instead of the ordinary three to five years). Carjacking is graded as a crime of the first degree, for which an extended term would be between 20 years and life

imprisonment (the standard term is between 10 and 30 years, with a mandatory minimum term of at least five years).

The extended term would only apply if the prior convictions were for two or more crimes committed on separate occasions, and the present crime for which the person is being sentenced was committed either:

- Within 10 years of the date of the person's last release from confinement for commission of any crime; or
- Within 10 years of the date of the commission of the most recent of the crimes listed above for which the person has a prior conviction.

Finally, the bill continues the current law's application disclosure and eligibility requirements for being licensed, certified, or employable in a variety of public and private professional occupations or trades regarding persons with a conviction for motor vehicle theft or receiving a stolen motor vehicle, by adding cross references to the new, separately allocated crimes throughout the statutory law concerning application disclosures and eligibility requirements to account for those crimes no longer being encompassed within the State's general theft and receiving stolen property statutes.