ASSEMBLY, No. 846

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Increases penalties for failing to yield when violation results in death to pedestrian.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning pedestrian safety and amending R.S.39:4-36.

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

1. R.S.39:4-36 is amended to read as follows:

39:4-36. a. The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any unmarked crosswalk at an intersection, except at crosswalks when the movement of traffic is being regulated by police officers or traffic control signals, or where otherwise regulated by municipal, county, or State regulation, and except where a pedestrian tunnel or overhead pedestrian crossing has been provided:

(1) The driver of a vehicle shall stop and remain stopped to allow a pedestrian to cross the roadway within a marked crosswalk, when the pedestrian is upon, or within one lane of, the half of the roadway, upon which the vehicle is traveling or onto which it is turning. As used in this paragraph, "half of the roadway" means all traffic lanes conveying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield or stop.

(3) Whenever any vehicle is stopped to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(4) Every pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(5) Nothing contained herein shall relieve a driver from the duty to exercise due care for the safety of any pedestrian upon a roadway. Nothing contained herein shall relieve a pedestrian from using due care for his safety.

b. A person violating any paragraph of subsection a. of this section shall, upon conviction thereof, pay a fine to be imposed by the court in the amount of $200. The court may also impose upon a person violating any paragraph of subsection a. of this section, a penalty of community service not to exceed 15 days in such form and on such terms as the court shall deem appropriate. If the violation results in serious bodily injury to a pedestrian, the person convicted of the violation shall be subject to a fine of not less than $100 or more than $500, and may additionally be subject to a sentence of imprisonment not to exceed 25 days, or a license suspension not to exceed six months, or both, in the discretion of

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 <u>thus</u> is new matter.

the court. As used in this section, "serious bodily injury" means serious bodily injury as defined in subsection b. of N.J.S.2C:11-1. If the violation results in the death of a pedestrian, the person convicted of the violation shall be required by the court to, for a period of six months, perform community service, in such form and on such terms as the court shall deem appropriate under the circumstances, and additionally shall be subject to a fine of not less than $500 or more than $1,000, and may be subject to a sentence of imprisonment not to exceed 90 days, or a license suspension not to exceed one year, or both, in the discretion of the court.

c. Of each fine imposed and collected pursuant to subsection b. of this section, $100 shall be forwarded to the State Treasurer who shall annually deposit the moneys into the "Pedestrian Safety Enforcement and Education Fund" created by section 1 of P.L.2005, c.84 (C.39:4-36.2).

d. In the event of a collision between a vehicle and a pedestrian within a marked crosswalk, or at an unmarked crosswalk at an intersection, there shall be a permissive inference that the driver did not exercise due care for the safety of the pedestrian.

(cf: P.L.2009, c.319, s.2)

2. This act shall take effect immediately.

STATEMENT

This bill increases the penalty for a driver who is convicted of failing to yield to a pedestrian if the violation results in the death of a pedestrian. Under the bill, a person convicted of failing to yield to a pedestrian resulting in the death of the pedestrian is subject to a penalty of community service for a period of six months, a fine of not less than $500 or more than $1,000, and imprisonment not to exceed 90 days, or a license suspension not to exceed one year, or both.

Currently, the penalty for failing to yield at a crosswalk is a fine of $200. The court may also impose a penalty of community service not to exceed 15 days. If the pedestrian incurs serious bodily injury, the penalty is a fine of between $100 and $500. The court may also, in its discretion, impose a sentence of imprisonment not to exceed 25 days, or a license suspension not to exceed six months, or both.