# ASSEMBLY, No. 3600

# STATE OF NEW JERSEY

## 219th LEGISLATURE

INTRODUCED MARCH 5, 2020

**Sponsored by:**
**Assemblywoman AURA K. DUNN**
**District 25 (Morris and Somerset)**

**SYNOPSIS**

Increases penalties for injuring school crossing guard or student pedestrian in crosswalk.

**CURRENT VERSION OF TEXT**

As introduced.

**AN ACT** concerning traffic control and amending R.S.39:4-36 and P.L.2007, c.78.

**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

**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.**

suspension not to exceed six months, or both, in the discretion of the court. If the violation results in bodily injury or serious bodily injury to a student pedestrian who is crossing the roadway in a marked crosswalk in a school zone, as defined under R.S.39:1-1, while school is in session, the person convicted of the violation shall be fined $1,000 and, in the discretion of the court, may be subject to a term of imprisonment for a period not to exceed 35 days, subject to a license suspension not to exceed six months, or both. As used in this section, "bodily injury" and "serious bodily injury" **[**means serious bodily injury**]** shall have the same meaning as defined in **[**subsection**]** subsections a. and b. of N.J.S.2C:11-1.

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)**]** 1 of P.L.2005, c.86 (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. Section 1 of P.L.2007, c.78 *(C.*39:4-80.1) is amended to read as follows:

1. a. A motor vehicle operator who fails to comply with a school crossing guard's signal to stop during those time periods when that guard is duly authorized to control or direct vehicular or pedestrian traffic pursuant to section 4 of P.L.1979, c.82 (C.40A:9-154.4) shall be fined not less than $150 for a first offense. For a subsequent offense, the operator shall be fined not less than $300.

b. In addition to any other civil or criminal penalty that may be applicable, the operator of a motor vehicle who causes a collision with a school crossing guard, while in the actual performance of official crossing guard duties, that results in bodily injury or serious bodily injury to the school crossing guard shall, upon conviction, pay a $1,000 fine and shall forfeit the right to operate a motor vehicle for three months.

c. In addition to any other civil or criminal penalty that may be applicable, the operator of a motor vehicle who fails to comply with a school crossing guard's signal to stop in violation of subsection a. of this section and causes a collision with a student in violation of subsection b. of R.S.39:4-36 shall, upon conviction, pay a $1,000 fine and shall forfeit the right to operate a motor vehicle for three months. The period of license suspension under this subsection may be concurrent with or consecutive to a period of license suspension imposed for a conviction under the provisions of subsection b. of R.S.39:4-36 arising out of the same incident.

d. As used in this section, “bodily injury” and "serious bodily injury" shall have the same meaning as defined in subsections a. and b. of N.J.S.2C:11-1.

(cf: P.L.2007, c.78. s1)

3. This act shall take effect immediately.

STATEMENT

Under current law, the operator of a motor vehicle who fails to comply with the school crossing guard’s signal to stop is subject to a fine of not less than $150 for a first offense, and not less than $300 for a second offense.

This bill establishes that if a driver collides with a school crossing guard and causes bodily injury to the crossing guard, the driver is subject to a penalty of a $1,000 fine and a three month license suspension. This penalty is to be imposed in addition to any other civil or criminal penalty that may apply under the law.

This bill increases the penalty for a driver who fails to yield to a student pedestrian in a crosswalk located in a school zone if the violation results in bodily injury or serious bodily injury to the student. Under current law, if a driver fails to yield to a pedestrian and that pedestrian sustains serious bodily injury, the driver is subject to a fine of not less than $100 and not more than $500. Current law also provides that a court may, in its discretion, impose a sentence of imprisonment not to exceed 25 days, or a license suspension not to exceed six months, or both. This bill increases the penalty to a $1,000 fine and a possible sentence of imprisonment not to exceed 35 days. The authority to impose a possible six month license suspension under the law is unchanged.

In addition, this bill establishes a $1,000 fine and a three month license suspension if the driver fails to comply with the directions of a school crossing guard and collides with a student who sustains bodily injury or serious bodily injury. The license suspension may, in the discretion of a court, run consecutively or concurrently with a license suspension for colliding with a student in a school crosswalk.

The law defines “serious bodily injury” as physical pain, illness, or any impairment of physical condition which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. “Bodily injury” is defined as physical pain, illness or any impairment of physical condition under current law.