

# Drivers Can Be Jailed If Your Passengers Don't Wear Seat Belts

---

September 23, 2014 | by Einhorn Barbarito

In a major decision, the New Jersey Supreme Court declared that a driver's failure to have his passenger wear a seat belt could result in a jail sentence to the driver if the passenger is either killed or seriously injured.

In *State v. Lenihan*, our Supreme Court confirmed the conviction of a teenager who was involved in a motor vehicle accident. The teenager was speeding and overdrove the weather conditions. Her vehicle veered to the right, collided with the guardrail and hit a sign. As a result, both the driver and her passenger suffered serious head injuries. Unfortunately, the passenger died. Neither the driver nor the passenger were wearing seat belts. The driver was indicted for a second-degree offense based upon the seat belt law and recklessly causing the death of the passenger. She was also charged with vehicular homicide and vehicular homicide within 1,000 feet of school property. The driver moved to dismiss the "seat belt prosecution" under [N.J.S.A. 2C:40-18b](#) which makes it a crime if a person knowingly violates a law intended to protect the public health and safety or knowingly fails to perform a duty imposed by a law intended to protect the public health and safety. The Statute is graded based upon the type of injury that is sustained by a third party. It is a serious second-degree offense if the conduct causes death, a third-degree if there is serious bodily injury and fourth-degree if there is significant bodily injury.

The attorney for the defendant driver sought to have the N.J.S.A. 2C:40-18 count of the indictment dismissed on constitutional vagueness grounds. The Supreme Court held that a person of common intelligence would understand that a knowing violation of the seat belt law would be covered by the Statute. The Court found that the seat belt law was intended by the Legislature to protect the community at large and not merely discreet individuals.

The message from the case is simple and clear: a driver can be held responsible for injuries or death sustained by a passenger if that driver does not insist that seat belts be worn. This applies to drivers of all ages; not just teenagers. The decision sends a loud and distinct message. Our Courts consider seat belt usage to be of primary public importance. The decision stands for the proposition that failure to have passengers wear seat belts can result in a jail sentence to a driver. If there is a death, the driver can face up to 10 years in prison and if there is significant or serious injury, the driver can be jailed between 3 and 5 years for the third-degree offense or for up to 18 months for the fourth-degree offense.

Drivers beware, seat belts must be worn by passengers or you face a potential jail sentence if there is an accident, injury or death and your passenger has not worn a seat belt.