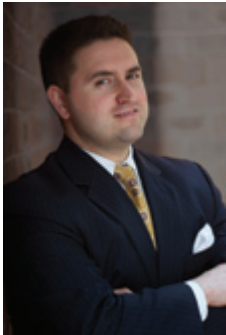


Violation Of Seatbelt Law Can Result In 3-10 Years In Prison. (Yes, You Read That Correctly).

August 2, 2012 | by Matheu Nunn



On August 13, 2012, in [State v. Kirby Lenihan](#), the Appellate Division was forced to decide whether a violation of New Jersey's "seat belt law" (codified at N.J.S.A. 39:3-76.2(f)) can serve as a basis for a conviction of the more serious, N.J.S.A. 2C:40-18(b), which makes it a third degree crime for "knowingly violating a law or failing to perform a duty imposed by law intended **to protect the public health and safety and recklessly causing serious bodily injury.**" *Note: a violation of this statute, N.J.S.A. 2C:40-18 resulting in death is a second degree crime, punishable by 5-10 years in prison. Kirby Lenihan pled guilty (plea bargained) to the lesser offense of causing serious bodily injury as opposed to death. Therefore, she was facing 3-5 years in prison as a third degree offender.*

The facts are as follows: The then eighteen-year-old defendant, Ms. Lenihan, was driving her 1999 Hyundai southbound on Route 519 in Hampton Township, with her sixteen year-old friend, K.G., in the front passenger seat. Defendant lost control of the vehicle and it veered to the right, crossing the shoulder of the road, striking the guardrail head-on. Both defendant and K.G. were seriously injured and transported to a local hospital. K.G. died the following day.

In reaching its decision – that a driver's failure to require his/her passenger to wear a seatbelt can be a crime punishable by State Prison – the Appellate Division looked to the history of seatbelt laws. The court noted that in 1984, New Jersey enacted the Passenger Automobile Seat Belt Usage Act, making

the wearing of seat belts in passenger cars mandatory in New Jersey. The court then looked at the seatbelt statute, which provides that “all passengers who are at least eight years of age but less than 18 years of age, and each driver and front seat passenger of a passenger automobile operated on a street or highway in this State shall wear a properly adjusted and fastened safety seat belt system”

Based on the language of the seatbelt statute, as well as the Legislature’s intent in enacting the statute, the Appellate Division found that it is clear that the seat belt law is a **law intended to protect the public health and safety**. Therefore, where a driver fails to enforce the passenger-seatbelt requirement, the driver can be found guilty of a **crime** and sentenced to State Prison if the passenger is seriously injured or dies.

So, next time your passenger decided not to wear his or her seatbelt, you should either kick them out of your car (no, not while it is moving) or refuse to let them get in the vehicle. If you don’t? You may end up like Kirby, or, even worse, in State Prison for 10 years.