



THE ADVOCATE

A Publication of Gambone Law – PA (215) 755-9000 - NJ (856) 793-7429

Newsletter



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3 Ways to Absolutely Ruin Your Holidays, Christmas & New Year

The Christmas Season and the Holidays (even Festivus) are here and there is nothing that can ruin them like getting arrested and charged with a crime in New Jersey or Pennsylvania! While most of my readers won't run into any trouble this Holiday Season, they may have a friend or a family member who doesn't read my weekly E-Updates, my blog, my books, or watch my more than 600 videos.

As I've stated in all of our publications, individuals who fail to understand their constitution rights and limitations are usually in the worst position if and when they find themselves charged with a crime in Pennsylvania or New Jersey.

Our criminal defense law firm firmly believes that an educated client is in the best position to obtain a great result in their case.

While obviously there are a number of crimes that a person could be charged with, the majority of offenses that we see during Christmas and Holidays involve the following:

- illegal possession/distribution of drugs and narcotics (Title 35, Section 780-113, PA; 2C:35-10, NJ),
- illegal guns & firearms (Title 18, Chapter 61, PA; 2C:39-5, NJ), and
- driving under the influence (DUI/DWI) (Title 75, Chapter 38, PA; 39:4-50, NJ).

All of these offenses typically don't involve violence but happen because a person failed to under-

stand their actions in relation to the law in question. Sadly, people believe that many offenses do not occur because individuals intentionally choose to commit a crime. While this does happen, our criminal defense law firm represents a number of individuals who truly believe that their act wasn't illegal and well within their rights under the law in New Jersey and Pennsylvania.

This is why it so important to understand the laws relating to drugs, narcotics, drunk driving and gun possession. Our law firm produces much of its written and video content in this area because offenses within in are so common.

Here are the 3 mistakes that we often see as the most troublesome, especially during the holidays.

Taking prescription medicine and certain over the counter drugs before getting on the road to visit family and friends.

Most people believe that driving under the influence (DUI – Pennsylvania) or driving while intoxicated (DWI – New Jersey) only occurs when an individual has imbibed or consumed too much alcohol or an illegal narcotic or drug, like marijuana, heroin, PCP, or crack cocaine. This however, isn't the law in any jurisdiction and the purpose of the DUI/DWI statutes is to protect the public from **impaired drivers** who aren't able to safely operate a motor vehicle on the road.

Prescription medications, which your doctor proscribes legally to you, can sometimes cause impairment. This impairment warning is always indicated on the label of the drug. When a person operates a motor vehicle under the influence of any substance that causes impairment, they commit a crime under the DUI/DWI statute.

Pennsylvania, like New Jersey, imposes mandatory minimum sentencing for these crimes and the law doesn't distinguish between crack cocaine and Benadryl for the purposes of the mandatory minimum sentencing laws. While obviously the ingestion an illegal substance like crack cocaine, marijuana, or heroin, as opposed to a legally proscribed or over the counter drug, like Benadryl, will likely help an individual from receiving a harsher sentence than the mandatory minimum penalty, it isn't a legal defense. I can't tell you how many clients actually believe that its fine to take prescriptions drugs which cause impairment and drive!

Driving Through New Jersey with an Out of State Handgun

I've written a number of articles on New Jersey's Graves Act and its very strict firearms laws, which exposed even, first time offenders to a mandatory **Continued on Page 4...**

Download my Criminal Defense Strategy Books

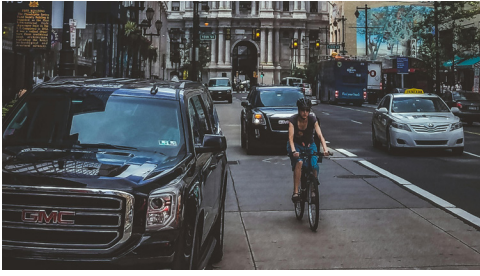


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The Streets of Philadelphia— There have been over 470 hit-and-run accidents so far in 2024— What should you do after a vehicle accident in Pennsylvania and New Jersey?

With the Christmas and Holiday season beginning, our law firm will begin to focus a lot of its content on vehicle related offenses. During the Holiday season vehicle accidents typically increase and so do criminal offenses related to those accidents.

Our law firm represents individuals charged with crimes in Pennsylvania and New Jersey. Many of these crimes involve vehicles and cars which are involved in an accident. In some situations, these offenses are drunk driving related (DUI-Pennsylvania and DWI-New Jersey). In other cases, however, they are simply accidents in which a person exercises poor judgement. To date in 2024, there have been 473 hit-and-run accident in Philadelphia in alone with 36 resulting in death.

When have received many phone calls from persons in Pennsylvania and New Jersey in situations where they did not remain on site and simply ran from scene.

Here are the answers to the most common questions that our criminal defense law firm receives:

1. What am I legally obligated to do after an accident in Pennsylvania and New Jersey?
2. How serious of a criminal charge is leaving the scene of accident in Pennsylvania?
3. How serious of a criminal charge is leaving the scene of accident in New Jersey?
4. What should I do after a vehicle accident in Pennsylvania or New Jersey.
5. If I fled the scene after the accident (hit/run), what should I do if police come to my home or workplace? What if the police threaten to arrest me if I don't speak with them?

What is your legal obligation following an accident in Pennsylvania and New Jersey?

From a legal standpoint, you are legally obligated to remain at the scene following an accident, especially one in which a person is injured or killed. It is a crime to leave the scene of accident in Pennsylvania and New Jersey. This is known as the duty to give information and render aid (See

Title 75, Section 3744; New Jersey has a very similar law, see 39:4-129 & 2C:12-1.1

How serious of a criminal charge is leaving the scene of accident in Pennsylvania?

Leaving a scene of an accident is a crime in Pennsylvania and New Jersey; it also implies conscious of guilt. Conscious of guilt is a common argument which Prosecutors use at trial.

Conscious of guilt can also be utilized in a probable cause analysis along with a bail argument. This legal concept basically means that an individual fled the scene or acted in a particular way because they knew that they had committed an act against the law or some other wrongdoing.

Leaving the scene of an accident is a misdemeanor offense in Pennsylvania unless a person is seriously injured or killed. In those situations, leaving the scene of an accident is a felony offense. See Title 75 Section § 3743 – Accidents involving damage to attended vehicle or property). If the accident involves serious bodily injury or death, it a felony crime in the Commonwealth See Title 75 Section § 3742

How serious of a criminal charge is leaving the scene of accident in New Jersey?

In New Jersey, leaving the scene of an accident is a crime of the second degree when a person is killed and a crime of the third degree where a person is seriously injured. While a crime of the third degree normally carries of presumption of non incarceration, there is no such presumption for this particular crime in New Jersey. See 2C:11-5.1 and Leaving the Scene of an Accident in New Jersey (39:4-129 & 2C:12-1.1)

What should I do after a vehicle accident in Pennsylvania or New Jersey.

If you're in a vehicle accident involving another vehicle and you remain at the scene, DO NOT volunteer any information, and only provide the officer with your license and registration. Unless you are going to make a verbal or written statement admission that the accident was absolutely NOT your fault, I would advise against not speaking to police or providing a statement. All statements are admissible in Court and in potential civil actions. It is important to keep in mind that the civil and criminal standard are completely different.

The burden in Criminal Court is guilt beyond a reasonable doubt where the civil standard is preponderance. It is possible to be found not guilty in a Criminal Court, but still be liable civilly. Civil damages, however, will only subject you to monetary claims, whereas criminal penalties could result in loss of driver's license, substantial fines, probation, and perhaps even State prison. For all these reasons, I would advise not speaking to police following an accident.

What do if you flee the scene of accident (aka hit/run accident)

If you leave the scene of the accident, there is a strong possibility that police will identify your vehicle from traffic camera footage or perhaps by-standers who took down your license platefol-

lowing the incident. When police come to your home or place of business, I would advise against speaking to them but simply remaining silent and/or providing the name of your attorney.

What if the police threaten to arrest me if I don't speak with them?

If police threaten to arrest you if you do not make a statement, simply let them arrest you as they were likely to do so anyway given that leaving the scene of an accident is a misdemeanor and possible even a felony crime. All communication between you and the police should be through your criminal defense lawyer, and you should only make possible admissions following the advice and counsel of your criminal defense lawyer attorney.

There is a strong possibility that the alleged injured or family of the deceased party (estate) may file a civil lawsuit against you. You should make sure that your criminal defense lawyer and civil defense lawyer are in good contact

Finally, keep in mind that police aren't permitted to search your home or vehicle without a search warrant. Do not give consent to search any of your property or your person without a search warrant. If police threaten to search anyway, simply allow them to do so. Do not get in their way but it make it clear, however that you are not giving consent for the search. Do not sign any documents authorizing a search. Do not submit to any chemical tests which would include blood, urine or breath testing. If police request that you appear at their station for an interview, do not go alone and contact your criminal defense lawyer immediately.

If you're charged with leaving the scene of accident in Pennsylvania or New Jersey contact our law firm today. DO NOT make any statements or speak to police without consulting with a criminal defense lawyer!



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Our law firm is committed to achieving outstanding results for you and your family despite what may appear to be a difficult situation. Call us today and learn what we can do to help you through one of life's challenges.

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What You Must Know About Nebbia (Bail Source) Hearings in Pennsylvania

Our criminal defense law firm represents people charged with a variety of crimes and offenses in Pennsylvania and New Jersey. While the two states border each other, they have very different systems when it comes to bail. New Jersey is, for the most part, a cashless bail system following bail reform. In New Jersey, a judge will decide if a person will be held in jail prior to trial if the State files a motion to detain that person following an arrest. Things are very different in Pennsylvania!

What determines the bail amount in Pennsylvania?

Unlike New Jersey, Pennsylvania still employs a cash/monetary bail system. The amount of bail is set following argument from the defense counsel and the prosecution.

The amount of bail is based on the following factors

1. The nature of the offense and any mitigation or aggravation regarding it
2. The defendant's employment history and financial condition
3. The defendant's family relationships (i.e. children)
4. The length and nature of the defendant's residence in the community and past residence

5. The defendant's age, reputation, and mental condition
6. The defendant's history regarding his or her failure to appear in the past
7. The defendant's prior criminal history
8. Any other factors the court may find relevant in this analysis

Your criminal defense lawyer should argue these points at your initial bail hearing and every subsequent bail petition hearing if it remains an issue. Remember that excessively high bail could mean that you would remain in jail until your case goes to trial and you're exonerated—this could take months or over a year!

What is a Nebbia Hearing (Source Hearing)

After the bail amount is set, a Court may require the Defendant to show the source of the funds that will be posted as bail. This is called a Nebbia hearing, also known as a bail source hearing.

This is a court hearing that requires a defendant to show that the funds used for bail are from a legitimate source. These source hearing are often requested in cases involving serious offenses, such as drug trafficking, kidnapping, or money laundering.

What Evidence Will Support the Defense Argument of Legitimate Source

The term "Nebbia hearing" comes from the landmark Supreme Court case *United States v. Nebbia*, in which the Court allowed for the detention of suspects while the source of their bail funds was investigated. Evidence to support

that the funds are coming from legitimate sources include paystubs, bank account records and other financial documentation. If a bail bond company is used, then all that is usually required is a letter from the bail bond company explaining the source of funds and that the company is ready to post the full amount.

What Happens at a Nebbia Hearing?

At a Hearing, the person who will be paying bail must appear to show the appropriate paperwork to the court and be told that they will be the surety for bail. It is important to understand that it is their responsibility to ensure that the Defendant appear in court at all listings until the case is over otherwise the amount posted could be forfeited.

Once the case is over, the surety will get a large percentage of the money paid for bail back from the courts.

If you have more questions about bail in Pennsylvania or New Jersey, contact our law firm today!



Schedule Your Appointment with Dr. Carabello Today



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factor in your longevity. 150 minutes of moderate exercise should be your target regardless of the time of the year. There are a number of ways to get in those minutes by walking, taking the stairs and even parking further away from that store. Getting even 20 minutes of HIIT (high-intensity interval training) 4 or 5 days a week will keep your metabolism elevated. Combine these 20 minutes with daily walks, taking the stair, bike rides and even things decorating or cleaning your house will help you maintain or even lose weight.

Don't Deprive Yourself but be Mindful

The Christmas and the Holidays are a time to enjoy different food with family but indulge mindfully! Eat a controlled portion and avoid grazing over that large dish or bowl. Know how much you are eating and don't randomly pick or snack.

Avoid taking home that extra slice of pie or piece cake. Extra turkey or other meats and vegetables are great additions to your next day salads rather than sandwiches. These little adjustments can make a huge difference!

Avoiding the Holiday Bulge – How to Enjoy Your Holidays and Achieve Your Healthy Lifestyle Goals

People often say that they tend to gain weight during the holidays and often have trouble losing it or getting back into shape long after the decorations are put away. This is very common but there are things you can do during the Holiday Season to avoid this battle of the bulge. You can enjoy this time of year and even indulge in some food traditions as long as you follow some simple rules

Keep Your Routine

The key to a healthy lifestyle is consistency! This means that you should keep up your meal prepping during the holidays and your exercise program. If you aren't doing it now, start today! This doesn't mean that you have to show up to Thanksgiving or Christmas Eve with your own Tupperware but there is no reason deviate from your routine the other days in November or December. Lack of structure

often increases the tendency to overeat high sugar and high fat food during the holidays.

Prioritize Lean Protein & Green Vegetables

Eat your lean protein and green vegetables first because it will cause you to feel fuller faster. Protein will also keep blood sugar and "hunger hormones"

more stable throughout the day, which can help control appetite. Fill up on lean protein and vegetables before you reach for that high carb choice. You will likely find that you don't want to eat as much of it

Limit Alcohol

You can enjoy few drinks over the holidays but understand that a significant increase in alcohol—especially mixed drinks with high-sugar content can lead to increased caloric intake. Remember that these calories count! There is no "diet alcohol" despite what alleged health experts try to claim. The key is moderation and not excessive consumption regardless if you are drinking clear liquors with club soda, beer, or wine, and mixed drinks. It all counts and studies show that alcohol does negatively affect hormone levels in men and women. Limit your consumption to one or two drinks. There is nothing wrong with avoiding alcohol completely as they are empty calories which offer zero nutrition benefit. Alcohol really has no place in a healthy lifestyle and it will make it harder to achieve your fitness goals

Exercise Early and Often

The Holiday season isn't a reason to stop exercising and moving! Movement is a good and a critical

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3 Ways to Ruin Your Hoidays (Cont.)

minimum sentence. New Jersey does not honor a Pennsylvania license to carry and any individual who enters the Garden State, even if it's to drive through the state to reach their ultimate destination, commits a felony level offense under the Graves Act in New Jersey.

If you must travel through New Jersey with a handgun, it must be unloaded and secured in a separate lock box or container with the ammunition in a separate compartment. While you are never obligated to give consent to a police officer or state trooper to search your vehicle, carrying the weapon in this manner will prevent you from committing a crime in the Garden State.

Like DUI/DWI in New Jersey, a person who commits a crime under the Graves Act is exposed to mandatory minimum sentencing. New Jersey has enacted safety valve provisions which prevent a person from serving time in state prison following a conviction under this act. This program, however, is at the discretion of the prosecutor in that particular county.

It's also important to understand that in many of these cases the prosecutors won't offer pre-trial intervention (PTI), but rather a plea to a felony level offense, which simply allows a person to serve a probation sentence but still results in a criminal conviction that could seriously impact a person's

professional and educational opportunities.

Hosting Parties where Alcohol is Served to Minors

It is very common for people to host parties and other events at their homes for friends and family. While these are often casual events, the law doesn't distinguish between a formal affair held at your home and one where people are sitting around a fire pit, and your shore or lake house.

In Pennsylvania, social host liability applies to adults who serve alcohol to minors. Adults are responsible for the consequences of their own drinking but minors are the exception. New Jersey, however, doesn't limit lawsuits to minors, but also allows adults to bring claims against social hosts if these individuals leave an event clearly intoxicated.

It is our sincere hope that you enjoy the Holiday and Christmas Season with your family. Please enjoy it responsibly.

For more information on how we can assist you, a friend, or family member, please contact our office and visit our [free download section](#) for more information.

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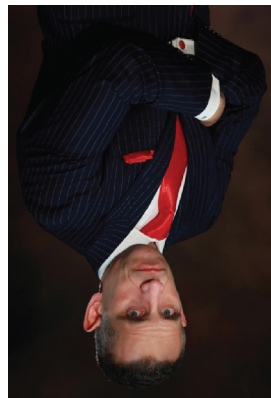
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Question of the Month
What is Probable Cause and Why is it Important?
Probable cause exists when the facts and circumstances within the police officer's (or another law enforcement official's) knowledge are sufficient enough that a reasonable person would believe that the person arrested or searched was committing or had committed a crime. Pennsylvania and New Jersey maintain protections against illegal search and seizure within their own Constitutions. Before obtaining a warrant or arresting someone, police must have probable cause
While police need probable cause to arrest, police and other law enforcement-ment need only reasonable suspicion to start an investigation. Reasonable suspicion is just a lower form of probable cause. Police also only need reasonable suspicion to conduct a canine search (drug dog) of persons and or property (luggage, vehicles)

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