

NJ LAWS EMAIL NEWSLETTER E500

Kenneth Vercammen, Attorney at Law

August 17, 2016

Greetings!

In this issue:

1. Oppose Lawmaker's "Ham Sandwich" bill
2. Defense should be permitted to present witnesses.
3. Gap time jail credit permitted in DWI.
4. Annual Summer Happy Hour photos
5. Recent Youtube links

1. Oppose Lawmaker's "Ham Sandwich" bill

Oppose Lawmaker's bill to make it a an expensive traffic ticket to change your radio station in the car to listen to news and traffic. Lawmakers should have more important priorities like eliminating handouts to underperforming schools. Our Police resources should be to prevent real crime including Internet rip off on the elderly. Police should not be expected to issue more tickets if a driver takes a sip of water in the summer while driving. Lawmaker should concentrate on funding the TTF, lower our ridiculous property taxes, etc. The Home New Tribune wrote:

"Ham sandwich bill still stinks"

"The "ham sandwich" bill is back. And it's just as distasteful as ever. A bill working its way through the Legislature would make it illegal in New Jersey for drivers to do anything in their vehicles except drive. They wouldn't be allowed to sip their coffee. They wouldn't be allowed to change a radio station or adjust the volume. Reaching for toll money while the car is moving? Nope. And yes, they couldn't have a bite of a ham sandwich, or any other food. All of those "activities" - to use the term loosely - and many others have nothing to do with operating a vehicle, and therefore would constitute distracted driving. Penalties could be as high as a \$400 fine for a first offense.

Assemblyman John Wisniewski, D-Middlesex, chairman of the Assembly Transportation Committee, has been pushing this kind of legislation for years, despite past ridicule that included the ham-sandwich denunciation.....

But there will be violations, randomly and arbitrarily applied even as the vast majority of offenses go unseen or ignored. That's not fair to anyone, fostering that much more distrust of police stuck with enforcing a law its creators don't particularly want enforced anyway. We also already have laws on the books against careless and reckless driving that deal with the dangerous effects of distracted driving. Stricter enforcement of those laws would make more sense than worrying about a driver eating a donut.....

There's a big difference in changing the "behavior" involved in snapping on a belt and forgetting about it, and banning innocuous little actions that would occur throughout anyone's drive. The ham sandwich bill may be well intentioned, but it's the wrong recipe to advance highway safety."

<http://www.mycentraljersey.com/story/opinion/editorials/2016/08/07/ham-sandwich-bill-still-stinks/88333332/>

2. Defense should be permitted to present witnesses.

State v. Cope 224 NJ 530 (2016) (A-13-14; -74206)

1) After arresting the defendant in his living room, the police conducted a protective sweep of an adjoining porch to ensure no individuals posing a safety risk were on the premises. The sweep did not violate constitutional standards and the trial court properly denied the motion to suppress the rifle. 2) The trial court abused its discretion when it denied defendant the right to present a full third-party-guilt defense. A witness whose testimony is central to a defense of third-party guilt cannot be kept off the stand unless the expected version of events is so patently false that the events could not have occurred.

3. Gap time jail credit permitted in DWI.

State v. Walters ____ NJ Super. ____ (App.Div. 2016) A-0203-14T1

Defendant Matthew J. Walters appeals from the Law Division order that removed gap-time credit from a previously-entered judgment of conviction (JOC). The Law Division found that gap-time credit cannot be awarded for a sentence imposed on a Title 39 violation - driving while intoxicated (DWI), N.J.S.A. 39:4-50. The court concluded that nothing in the language or statutory scheme of N.J.S.A. 2C:44-5(b) supports the conclusion that a defendant must be convicted for a Criminal Code offense to receive gap-time credits.

Given that the defendant has satisfied the requirements of N.J.S.A. 2C:44-5(b) (2), he is entitled to gap-time credits even though the sentence was for a Title 39 violation. Reversed and remanded to the Law Division for amendment of the judgment of conviction to reflect the proper award of gap-time credits.

4. Annual Summer Happy Hour photos

Annual Summer Happy Hour: More photos by professional photographer Jill Margolin Segerman

<https://www.facebook.com/events/100183356999884/permalink/302325726785645/>

5. Recent Youtube Links



Can't expunge multiple crimes. In the Matter of the Expungement Petition of J.S. __ NJ __ (2015) (A-84-13)



State v Jones Accident with unconscious driver was exigency for police to take blood.



Improper use of Power of Attorney

Friends and clients can help us by....

Help us with a review on Google 
<https://plus.google.com/100353581223417384493/posts>

Liking us on Facebook  <https://www.facebook.com/Kenneth-Vercammen-Associates-PC-Law-Office-Edison-NJ-08817-149816077985/>

Endorsing us on LinkedIn 
<https://www.linkedin.com/in/kennethvercammen>

Help us with a review on Yelp  <https://www.yelp.com/biz/kenneth-vercammen-and-assoc-attorney-at-law-edison>

Help us with a review on Avvo <https://www.avvo.com/attorneys/08817-nj-kenneth->

Editorial Assistance Provided by DeVante Crews. Mr. Crews is participating in Ken Vercammen's Summer Internship Program and currently a student at Rutgers University, New Brunswick.

Editor's Note and Disclaimer:

All materials Copyright 2016. You may pass along the information on the NJ Laws Newsletter and website, provided the name and address of the Law Office is included.

KENNETH VERCAMMEN & ASSOCIATES, PC
ATTORNEY AT LAW
2053 Woodbridge Ave.
Edison, NJ 08817
(Phone) 732-572-0500
(Fax) 732-572-0030
website: www.njlaws.com