

STATE OF NEW JERSEY,
Plaintiff-Respondent,

v.

Darius J. Carter,
Defendant-Appellant.

SUPREME COURT OF NEW JERSEY
CASE NO. 083221

Criminal Action

On Petition for Certification from a
Judgment of the Superior Court of
New Jersey, Appellate Division,
Docket No. A-129517t4

Sat Below:

Hon. Robert J. Gilson, J.A.D.
Hon. Arnold L. Natali Jr, J.A.D.

**BRIEF AND APPENDIX OF AMICUS CURIAE
LATINO LEADERSHIP ALLIANCE OF NEW JERSEY**

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STATEMENT OF INTEREST OF AMICUS CURIAE

This friend-of-the-court brief is submitted on behalf of the Civil Rights Protection Project (CCRP) of the Latino Leadership Alliance of New Jersey (LLANJ), hereinafter "Amicus." The interests of Amicus are outlined in the attached Certification of Richard Rivera.

PRELIMINARY STATEMENT

Since late May 2020, when police officers killed George Floyd in Minneapolis, this nation has undergone a moment of reckoning over its centuries of systemic racism. Protestors have taken to the streets on an almost daily basis, demanding that we address racial inequalities that have harshly impacted and, at times destroyed, Black and brown lives. In response, individuals, corporations, sports teams, law enforcement agencies, and lawmakers have begun to closely examine the ways in which our policies, practices, customs, beliefs, and laws do harm to Black and brown people. Changes have begun to occur as a result of this evaluation, although the road to racial justice will be long.

This moment demands that our courts also evaluate the ways in which legal jurisprudence has negatively impacted people of color and/or permitted systemic racism to perpetuate itself. This case presents an opportunity for the Court to limit the discretion of law enforcement officers and curtail the use of

one particular statute from being used as a justification for pulling motorists over so as to engage in criminal investigations. This case, as well as another case currently on the Court's docket, State v. Roman-Rosado, demonstrates that police officers are stopping motorists for alleged violations of N.J.S.A. 39:3-33 simply because a license plate frame slightly covers the slogan "Garden State" on the vehicle's license plate. These stops are occurring even though the actual registration numbers and letters on the license plate are not obscured in any way to make it difficult or impossible for an officer to run that information through a mobile data terminal to determine whether the vehicle is registered or not. These stops are occurring not for any legitimate public safety reasons, but solely because police officers are hunting for reasons to stop motor vehicles and so that they can get a peek inside a vehicle or run a background check on the driver.

Sadly, the Appellate Division's decision in this case permits these pretextual stops and it reached its conclusion without considering the consequences of its decision or even whether its interpretation comported with the legislative purpose of the statute. This Court can reverse and limit the ability of police officers to use N.J.S.A. 39:3-33 as a basis for a pretextual stop without engaging in any judicial activism whatsoever. As argued below, the legislative history surrounding

the placement of "Garden State" upon license plates demonstrates that the Legislature never intended for it to serve any public safety purpose and therefore construing N.J.S.A. 39:3-33 to penalize drivers who cover the slogan "Garden State" on their plates has no rational relationship to the statute's underlying purpose and only opens the door to arbitrary enforcement.

This Court should reverse.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Amicus adopts the Statement of Facts and Procedural History as stated by the Defendant in his Appellate Division briefs.

LEGAL ARGUMENT

I. N.J.S.A 39:3-33 SHOULD NOT BE CONSTRUED TO AUTHORIZE A MOTOR VEHICLE STOP WHERE THE PHRASE "GARDEN STATE" IS COVERED BY A LICENSE PLATE FRAME BECAUSE SUCH A CONSTRUCTION HAS NO RATIONAL RELATION TO THE PURPOSE OF THE STATUTE AND IS NOT WHAT THE LEGISLATURE INTENDED TO RENDER UNLAWFUL; GIVES POLICE OFFICERS FAR TOO MUCH DISCRETION, WHICH INVITES PRETEXTUAL STOPS THAT DISPROPORTIONATELY IMPACT PEOPLE OF COLOR; AND RAISES FIRST AMENDMENT CONCERNS

The Appellate Division's decision below held that N.J.S.A. 39:3-33 is violated if *any* portion of *any* text on a license plate is in any way covered by a license plate frame, even if the license plate's actual registration numbers and letters are not obscured. Rather than repeating the statutory interpretation arguments advanced by Defendant regarding the meaning of the words "conceals" or "obscures" within N.J.S.A. 39:3-33, Amicus adopts those arguments and also adopts the

Appellate Division's analysis in State v. Roman-Rosado, 462 N.J. Super. 183, 198 (App. Div.), certif. granted, __ N.J. __ (2020).¹ As argued below, there are additional reasons to reverse the Appellate Division's decision in this case.

A. The Appellate Division's Decision Does Not Comport With the Legislative Purpose of N.J.S.A 39:3-33

The parties in this case stipulated that Defendant's "vehicle had a black license plate frame that obstructed the words 'Garden State' on the rear license plate" and "that the frame covered no part of the embossed registration number." State v. Carter, No. A-1295-17T4 (App. Div. June 24, 2019) (slip op. at 11). Therefore, the issue before the court was whether a violation of N.J.S.A. 39:3-33 occurred where "the license plate frame was partially obstructing the imprinted markings on the plate." Id. at 12.

N.J.S.A. 39:3-33 provides that:

No person shall drive a motor vehicle which has a license plate frame or identification marker holder that conceals or otherwise obscures any part of any marking imprinted upon the vehicle's registration plate or any part of any insert which the director, as hereinafter provided, issues to be inserted in and attached to that registration plate or marker.

¹ Amicus also adopts the legal arguments raised by the American Civil Liberties Union of New Jersey (ACLU-NJ) in State v. Roman-Rosado, including in particular its arguments addressing: 1) why this Court should decline to follow Heien v. North Carolina, 574 U.S. 54 (2014); and 2) why N.J.S.A. 39:3-33 is unconstitutionally vague and overbroad.

[Id. (emphasis added).]

The Appellate Division engaged in a very mechanical analysis of this statute and concluded that “the plain language of the statute prohibits a license plate from having a covering of ‘any marking imprinted’ on the plate, including the words ‘Garden State.’” Carter, (slip op. at 12. Because it found that the plain language was unambiguous, it refused to “delve [any] deeper” and consider the statute’s legislative history or Defendant’s arguments that a “common sense” reading of the statute “requires that a violation can only occur when the letters and numbers composing the vehicle’s registration are obstructed.” Id. at 12-13.

Respectfully, the Appellate Division erred by looking only at the statute’s precise language and not considering its intended purpose or its common-sense meaning. A court’s purpose is to “give effect to the Legislature’s intent.” Wilson ex rel. Manzano v. City of Jersey City, 209 N.J. 558, 572 (2012). Although courts generally begin a statutory interpretation analysis by looking at the plain language of a statute, a court must avoid seizing upon one or two words as a fixed guide to the meaning of the statute and must also read statutes “sensibly rather than literally.” State v. Friedman, 209 N.J. 102, 117 (2012) (citations omitted) (emphasis added). See also State v.

Jones, 347 N.J. Super. 150, 153 (App. Div. 2002) ("If a literal interpretation of a statute would lead to a result that is 'inconsistent with the overall purpose of the statute, that interpretation should be rejected.'").

Courts thus do not slavishly limit themselves to the dry words of legislation nor rely on mere abstract logic to determine what interpretation of a statute would fulfill the Legislature's purpose. More is called for than a merely mechanical analysis. Machines can perform mechanical tasks, but judgment is necessary to reach a result informed by intelligence.

[Friedman, 209 N.J. at 118 (quoting Mayfield v. Cmty. Med. Assocs., P.A., 335 N.J. Super. 198, 205 (App. Div. 2000) (quoting DeLisa v. County of Bergen, 165 N.J. 140, 147 (2000))).]

The Appellate Division ignored the fact that "a literal reading of the words of a statute may not yield the Legislature's intended result." Id. at 118 (citations omitted). Statutory construction must "turn on the breadth of the objectives of the legislation and the commonsense of the situation." Ibid. (citations omitted). To ascertain the objectives of the legislation, courts should look to extrinsic aids such as legislative history:

While legislative history is most usually examined if a court is satisfied that the statutory language is ambiguous, Thomsen v. Mercer-Charles, 187 N.J. 197, 206 (2006), it is appropriate to look to the legislative history as a tool to measure which construction of a statute's words will

result in achieving the goals the Legislature was striving to reach by enacting the statute.

[Id. at 118-19 (emphasis added).]

When these principles are applied to this case, it is clear that the Appellate Division's interpretation does not yield the Legislature's intended result and penalizing someone who covers the phrase "Garden State" on a license plate is not rationally related to any legitimate state purpose.

1. **The Addition of the Slogan "Garden State" to License Plates Was Not Done to Advance N.J.S.A. 39:3-33's Intended Purpose of Permitting Police to Easily Ascertain That Vehicles are Registered**

The purpose of N.J.S.A. 39:3-33 is to ensure that license plate registration numbers and letters are readable so that the police may determine "whether the car is registered, stolen, and whether the registered owner is licensed." State v. Donis, 157 N.J. 44, 55 (1998). As this Court explained in Donis:

When an officer enters a vehicle's license plate number, the initial "DMV plate" screen shows the expiration date of the registration for that vehicle; the status of the vehicle, including whether it has been reported stolen; the registrant's name, address, date of birth, and driver's license number; the year, make, model, license plate number, and color of the vehicle; the vehicle identification number; the number of owners of the registered vehicle; the maximum number of passengers for a passenger vehicle; the gross weight for a commercial vehicle; and the length of the registered vehicle if it is a boat.

When an officer accesses a DMV plate screen, the MDT then automatically runs a search of the registrant's name and displays the results on the "DMV name" screen. The DMV name screen shows the registrant's name and the number of names that match that search name; the registrant's driver's license number and date of birth; a code for the registrant's eye color; a code for whether the license or registration is suspended; whether the license is a photo or non-photo license; the licensee's address, social security number, date of birth, weight, and height; the term of the license; the license expiration date; the number of points accrued against the license; and the number of endorsements and restrictions on the license.

[Id. at 46-57.]

There is a "vital and compelling interest in maintaining highway safety by ensuring that only qualified drivers operate motor vehicles and that motor vehicles are in a safe condition." Id. at 51 (quoting State v. Kadelak, 280 N.J. Super. 349, 360 (App. Div.), certif. denied, 141 N.J. 98(1995)). If a license plate's actual registration letters and numbers were covered, then police would be unable to perform this important safety function.

Of course, given that the slogan "Garden State" is imprinted upon millions of license plates, it is common sense that the slogan is not a unique personal identifier that permits an officer to find out information about a vehicle's registration status or driver's license information, and in fact

the Legislature never intended the slogan to serve any public safety purpose. Instead, the legislative history of N.J.S.A. 39:3-33.2, the statute that added "Garden State" to license plates, demonstrates that the slogan was placed upon license plates to serve a non-safety and non-identification purpose: to market and promote the State's agricultural industry and to put "Garden State" on a path to becoming the official state slogan.

In 1953, the Legislature passed Assembly Bill No. 250, a bill that was identical to what is now N.J.S.A. 39:3-33.2. It was vetoed by Governor Alfred E. Driscoll in August 1953, with the accompanying veto message:

I am returning herewith, without my approval, Committee Substitute for Assembly Bill No. 250, for the following reasons:

Having the laudable purpose of advertising the natural advantages of our great State, this bill would require passenger motor vehicle registration plates to be imprinted with the words "Garden State." There might be some advantages derived from this form of embellishment of motor vehicle license plates, but upon full consideration I am impressed with the disadvantages. In order to achieve the result desired by the bill, it would be necessary to have larger license plates at extra cost and perhaps some inconvenience to motorists, since any reduction in the size of present lettering could not be considered. The registration plate itself, moreover, is an important legal device evidencing compliance with the laws of the State of New Jersey, and it should be confined to that purpose without the distraction of mottoes or phrases. The doubtful quality of the advertising might be

expected from the proposal does not, in my judgment, warrant the increased cost or the possible loss of public appreciation of the purpose of the license plates.

Accordingly, I am constrained to return the bill without my approval.

[Governor's Veto Message to Committee Substitute for A.250 (August 17, 1953) (emphasis added). [Aa1]².]

In 1954, the Legislature made a second attempt to add "Garden State" to license plates when it passed Assembly Bill No. 454. The sponsor's statement to the bill indicated that the bill was "identical" to the 1953 bill that Governor Driscoll vetoed but explained that indicated that in "April of 1956 there will be a general reissue of motor vehicle license plates and it is anticipated that they will be larger than the present plates in conformity with recommendations of the Interstate Traffic Code." Sponsor's Statement to A. 454 (May 24, 1954). [Aa4].

Just as Governor Driscoll had done, however, Governor Robert B. Meyner also vetoed the proposed addition of "Garden State" to license plates. His veto message stated:

The bill provides that the Director of the Division of Motor Vehicles shall, upon the occasion of the next month and each subsequent general issue of passenger car motor vehicle registration license plates, cause to be imprinted the words "Garden State".

² Aa = Amicus LLANJ's attached appendix

A bill similar to this was vetoed by Governor Driscoll in 1953. He said "the registration plate itself, moreover, is an important legal device evidencing compliance with the laws of the State of New Jersey and it should be confined to that purpose without the distraction of mottoes or phrases." Governor Driscoll's point of view might be refused if there existed either an official basis for the designation of New Jersey as "Garden State" or if the gardening or farming industry was a predominant feature of the State's economy. I refer, for example, to the designation on the Wisconsin license plates of that state as "America's Dairyland".

My investigation discloses that there is no official recognition of the slogan "Garden State" as an identification of the State of New Jersey. It is, moreover, obvious that New Jersey's place in the economy and life of the nation is today attributable to its predominance in many fields, in addition to its acknowledged high standing in agricultural pursuits. Statistically, only 2.4 percent of our workers are employed on farms while 97.6 percent are engaged in non-agricultural occupations. New Jersey is noted for its great strides in manufacturing, mining, commerce, construction, power, transportation, shipping, merchandising, fishing and recreation, as well as in agriculture. I do not believe that the average citizen of New Jersey regards this state as more peculiarly identifiable with gardening or farming, than any of its other industries or occupations. Indeed many of our people regarding this state and predominantly a residential community.

For the reasons set forth hereinabove, I cannot concur in the view that such justifiable purpose is served by the bill in question as would outweigh the obvious disadvantages of reducing the space on

mental license plates available for the official registration designation.

Accordingly, I am constrained to return Assembly Bill No. 454 without my approval.

[Governor's Veto Message to Committee Substitute for A. 454 (August 2, 1954) [Aa6].]

Almost immediately thereafter, the Legislature overrode Governor Meyner's veto and enacted N.J.S.A. 39:3-33.2. See L.1954, c. 221.

N.J.S.A. 39:3-33.2 has not been amended since 1954,³ but the Legislature has enacted other statutes to permit personalized license plates so that other phrases and words may be added in place of the phrase "Garden State."⁴ See, e.g., N.J.S.A. 39:3-33.2, -33.4, and -33.10; N.J.S.A. 39:3-27 to 3-27.159. Today, the Motor Vehicle Commission (MVC) replaces the phrase "Garden State" on more than 100 types of "dedicated plates" (i.e. "special interest" statements such as "United We Stand" or "Conquer Cancer"); "specialty places" (i.e. "organizational" designations such as "Merchant Marine" or "Teamsters"); "sports plates" (i.e. "Yankees"); and "special vehicle plates" (i.e. "Historic" or "Street Rod"). Accordingly, tens of thousands of

³ For a visual history of how New Jersey license plates have changed in appearance since 1903, see <http://njplates.moini.net/article.html>.

⁴ Approximately 64 years later, "Garden State" finally became the State's official slogan in August 2017. See L.2017, c. 214.

vehicles on the road in New Jersey⁵ display license plates that do not contain the words "Garden State."

None of these specialty designations further N.J.S.A. 39:3-33's legislative purpose, which is to ensure that police can read license registration numbers and letters in order to ensure that vehicles are properly registered and licensed. Instead, these specialty plates are designed to market certain organizations or causes and even serve as a fundraising mechanism for them. For example, the Legislature enacted N.J.S.A. 39:3-27.150 in 2017, which permits the MVC to issue "Equality" license plates that are designed in conjunction with Garden State Equality (GSE), a statewide lesbian, gay, bisexual, and transgender (LGBT) advocacy organization. GSE was required pursuant to N.J.S.A. 39:3-27.151(b) to pay up to \$25,000 to cover the initial costs of designing and producing the license plates, and a portion of all proceeds from the sale of those license plates goes directly to GSE to support its programming. N.J.S.A. 39:3-27.150(c). Numerous other organizations and causes share the same arrangement. See, e.g., N.J.S.A. 39:3-146 (Alpha Kappa Alpha); N.J.S.A. 39:3-27.152 (Delta Sigma Theta).⁶

⁵ In 2017, drivers bought or renewed 168,670 specialty plates. Larry Higgs, Here Are The Most Popular Sports License Plates Sold In N.J., NJ Advance Media, Nov. 26, 2018.

⁶ Other organizations have been granted license plate designations without the need for Legislation, such as the

These license plate designations can be an important advertising tool for organizations and causes; they are essentially "mobile billboards." See Wooley v. Maynard, 430 U.S. 705, 715 (1977) (stating that a statute that required a state slogan to be placed upon a license plate in effect required drivers to use their private property as a "mobile billboard" for the state's message).

The phrase "Garden State" should be seen as akin to these other specialty designations because N.J.S.A. 39:3-33 created what was essentially the first specialty license plate in New Jersey, although it was printed on every license plate. The placement of "Garden State" upon license plates was motivated by special interests and the desire to advertise and promote something to the general public. According to news articles at the time, the New Jersey Farm Bureau was behind the original push to add "Garden State" to license plates so that the state's farm industry could be elevated. See 'Garden State' May Appear on New License Plates in New Jersey, The Sunday News, June 13, 1954, at 6 (stating that the New Jersey Farm Bureau had announced that a bill to place "Garden State" upon license plates was being introduced and that the bill had the organization's "full approval" and that it could "now boast of

"Choose Life" plates by the Children First Foundation, which the MVC permitted after the organization sued the MVC for First Amendment violations.

record production of quality garden-type fruits and vegetables") [Aa9]; It Deserved the Veto, The Herald-News, Aug. 26, 1954 at 10 (stating that the New Jersey Farm Bureau expressed "sorrow" that Governor Meyner vetoed the bill) [Aa10].⁷

As the Legislature and MVC permitted numerous other words and phrases representing organizations, causes, and professions to be imprinted on license plates in place of the slogan "Garden State," the New Jersey Farm Bureau grew concerned that fewer plates displayed the slogan and that agriculture was no longer being sufficiently promoted as a result. According to the *New York Times*, the organization lobbied the Legislature to create yet another license plate that marketed the slogan "Garden State" and that promoted the agricultural industry:

The good news, Jim Johnson at the New Jersey Farm Bureau booth said proudly, was a new state license plate designed and sponsored by farmers. "We were getting worried when the other license plates coming out without having the Garden State on them," he said, "so we raised the \$50,000 it costs to get the state to commit to a new plate. We raised it entirely from the farm community. It took a year and a half, but it's finally coming out in the spring."

[Bill Kent, DOWN THE SHORE; Oh Yeah? Some Folks Take The Garden State Seriously, N.Y.

⁷ In fact, after Governor Driscoll vetoed the first bill to imprint "Garden State" on license plates, evidently "three large egg cooperatives" demanded that the state be called the "Egg State" and that a figure of an egg or the words "The Egg State" be imprinted upon license plates. See Voice of the Press, Courier-Post, Jan. 6, 1954, at 12.

Times, Jan. 21, 2001 (emphasis added).
[Aa11].]

The bill, Assembly Bill No. 895, was introduced in 2000 and the sponsor's statement explained that the purpose of the license plates was to "help illustrate the State's support for the continued prosperity of the family farm in New Jersey." Sponsor's Statement to A. 895 (209th Legislature). [Aa14]. The resulting law, N.J.S.A. 39:3-27.116, requires the MVC to issue license plates that "display the words 'Garden State' and an emblem indicating interest in agriculture in New Jersey[.]" According to the MVC's website, "[o]wners of passenger vehicles, commercial, farm use and farm vehicles can help advertise farming in New Jersey through the purchase of a Promote Agriculture plate that displays the words 'Garden State' and an agriculture emblem." Promote Agriculture, MVC Website, available at <https://bit.ly/2PoCOLZ> (emphasis added).

Therefore, it is abundantly clear that the slogan "Garden State" was placed upon license plates solely for marketing purposes and not to serve any public safety purpose. Thus, there is no reasonable relationship between N.J.S.A. 39:3-33 as construed by the Appellate Division -- i.e. permitting a motor vehicle stop because the slogan "Garden State" was covered or partially covered by a license plate frame -- and the statute's legislative purpose to make license plate registration numbers

and letters clearly visible to police officers. In that regard, Amicus fully adopts the arguments in Defendant's January 6, 2020 supplemental letter brief submitted in response to the Court's December 6, 2020 letter seeking briefing on the issue of "whether there exists a rational basis for the underlying statute (N.J.S.A. 39:3-33), which arguably would authorize a motor vehicle stop where the parties stipulate that the vehicle had a frame on the rear license plate that obstructed the words 'Garden State,' and further agree that the plate's registration letters and numbers were not covered." There is no rational basis for a statute that would penalize someone whose license plate frame covers only the phrase "Garden State" on a license plate; the Legislature did not intend such a result.

This Court should therefore not interpret the statute that way and it should reverse.

B. The Appellate Division's Erroneous Interpretation of N.J.S.A. 39:3-33 Renders It Unconstitutionally Vague and Opens the Door to Pretextual Stops, Which Disproportionately Affect People of Color

Vague laws are unenforceable pursuant to both the Federal and State Constitutions. State v. Cameron, 100 N.J. 586, 591 (1985). There are several reasons for this.

First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may

trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application.

[Ibid. (quoting Grayned v. City of Rockford, 408 U.S. 104, 108-109 (1972).]

Accord State v. Ramseur, 106 N.J. 123, 201 n.27 (1987) (recognizing that a vague statute "allows arbitrary and discriminatory enforcement of the laws").

Nearly 120,000 people received traffic tickets in 2017 for violations of N.J.S.A. 39:3-33. See Larry Higgs, Nearly 120K People Received a Ticket Last Year For This Common License Plate Violation, NJ Advance Media (Apr 10, 2018). If the Appellate Division's decision in this case is affirmed by this Court, the police would have virtually unlimited discretion to decide whether to stop large swaths of the general public based on what is essentially a "technicality." Many license plates frames cover at least some portion of the words "Garden State," even if only minimally. Often drivers did not personally place the license plate frames on their vehicles, nor would any reasonable person assume that partially covering words such as "Garden State" on a license plate would be illegal given that the purpose of the statute is to ensure that police can view

license plate registration information. See United States v. Flores, 798 F.3d 645, 648 (7th Cir. 2015) (finding it unreasonable for officer to have stopped vehicle where the periphery of license plate was covered by plate frame because it would render a "substantial amount" of lawful conduct illegal given that license plates are commonly given out by car dealerships, public universities, sports teams, and schools).

The unfettered discretion provided to law enforcement by the Appellate Division's interpretation of N.J.S.A. 39:3-33 would no doubt open the door to pretextual stops, which disproportionately impact Black and brown drivers as detailed below. Where possible, our courts interpret vague statutes in a manner that will avoid "constitutional infirmity." State v. Miller, 170 N.J. 417, 436 (2002). This Court can avoid that constitutional infirmity by construing N.J.S.A. 39:3-33 narrowly so that it only prohibits a motorist from driving with a plate that has the license plate registration numbers and letters obstructed. Such a decision will significantly curb the ability of police officers to use N.J.S.A. 39:3-33 as a basis for a pretextual stop, as the officer did in this case.

1. **New Jersey's History of Racial Profiling is Indisputable, and Reliable Evidence Indicates that the Practice has not been Eliminated**

Less than twenty-five years ago, the scandalous practice of racial profiling by New Jersey State Troopers on the New Jersey

Turnpike was brought to light in State v. Soto, 324 N.J. Super. 66 (Law Div. 1996), a decision that revealed the systematic targeting of Black motorists for both stops and arrests, allegedly on the basis of discretionary motor vehicle violations such as speeding. Expert testimony presented to the court in Soto documented that although Black motorists accounted for approximately fifteen (15%) percent of the actual traffic violations between Exits 1 and 3 on the New Jersey Turnpike during the period studied, they nevertheless accounted for approximately forty-six percent of the traffic stops and seventy-three percent of the arrests. Another study focused on the area between Exits 1 and 7A of the Turnpike, which documented that Blacks traveling between those exits during the period studied accounted for 35% of the traffic stops and 73% of the arrests. Based on the statistical evidence presented, the court observed:

The statistical disparities and standard deviations revealed are indeed stark. The discretion devolved upon general road troopers to stop any car they want so long as Title 39 is used evinces a selection process that is susceptible of abuse.

[Id. at 84-85.]

In a written report addressing Racial Profiling by the New Jersey State Police as well as the Soto decision, the New Jersey Legislative Black and Latino Caucus observed:

The Soto decision should have marked the beginning of reform within the State Police. Sadly, it did not. The Attorney General's Office continued the sorry legacy of institutional recalcitrance, denial of institutional responsibility, and refusal to commence institutional reforms. The Attorney General appealed the Soto decision, continuing to defend the actions of the State Police. Moreover, the unconstitutional practice of racial profiling by the State Police continued unaddressed and unabated. State Police data showed that in the first two months of 1997, minorities continued to account for 75% of the persons arrested on the Turnpike.

[New Jersey Black and Latino Caucus, A Report on Discriminatory Practices Within the New Jersey State Police, 26 Seton Hall Legis. J. 273, 279-80 (2002) (endnotes omitted).]

The Attorney General's "Interim Report" published on April 20, 1999 emphatically confirmed the conclusions reached by the trial judge in Soto:

Despite these efforts and official policies to address the issue of racial profiling, based upon the information that we reviewed, minority motorists have been treated differently than non-minority motorists during the course of traffic stops on the New Jersey Turnpike. For the reasons set out fully in this Report, we conclude that the problem of disparate treatment is real - not imagined.

* * *

Our review has revealed two interrelated problems that may be influenced by the goal of interdicting illicit drugs: (1) willful misconduct by a small number of State Police members, and (2) more common instances of

possible de facto discrimination by officers who may be influenced by stereotypes and may thus tend to treat minority motorists differently during the course of routine traffic stops, subjecting them more routinely to investigative tactics and techniques that are designed to ferret out illicit drugs and weapons.

The effect of any form of disparate treatment, whether obvious or subtle or intentional or not, is to engender feelings of fear, resentment, hostility, and mistrust by minority citizens. (The negative effects of race-based stereotyping are more fully described in Part IV, § A, infra.) This situation is both unacceptable and preventable, and we spell out in Part V of this Report a series of remedial steps that should be taken to address the problem.

[Peter Verniero & Paul H. Zoubek, Interim Report of the State Police Review Team Regarding Allegations of Racial Profiling 4, 7 (1999).]

Of particular relevance to the critical issue in this appeal concerning whether N.J.S.A 39:3-33 should be narrowly construed to limit the discretion of police officers, the Interim Report expressly confirmed the conclusion of Judge Francis in Soto that troopers with wider discretion ticketed minority motorists more often:

Information and analysis compiled by the Public Defender's Office during the course of the Soto litigation and relied upon by Judge Francis suggests that troopers who enjoyed a wider ambit of discretion, by virtue of the nature of their duty assignment, stopped and ticketed minority motorists more often. Specifically, the Public Defender's statistical expert

compared the tickets issued on 35 randomly-selected days by three different State Police units: (1) the Radar Unit, which uses radar-equipped vans and chase cars and exercises comparatively little discretion; (2) the Tactical Patrol Unit, which focuses on motor vehicle enforcement in particular areas and exercises somewhat greater discretion; and, (3) the Patrol Unit, which is responsible for general law enforcement and exercises the most discretion. Between Exits 1 and 7A of the Turnpike, the Radar Unit was found to have issued 18% of its tickets to African-Americans, the Tactical Patrol Unit issued 23.8% of its tickets to African-Americans, and the Patrol Unit issued 34.2% of its tickets to African-Americans.

Tickets issued south of Exit 3 yielded similar results: the Radar Unit issued 19.4% of its tickets to African-Americans, the Tactical Patrol Unit issued none of its tickets to African-Americans, and the Patrol Unit issued 43.8% of its tickets to African-Americans.

We are concerned by what may be a pattern that when state troopers are permitted more discretion by virtue of their duty assignment, they tended during the time periods examined to ticket African-Americans more often. This analysis is consistent with the notion that officers who had more time to devote to drug interdiction may have been more likely to rely upon racial or ethnic stereotypes than officers whose principal or overriding concern was to enforce specific motor vehicle violations or to respond to calls for service. This phenomenon highlights the need to find appropriate means to channel officer discretion to ensure that minority and non-minority motorists are treated in an even-handed fashion.

[Id. at 33-34 (emphasis added)].

In a number of Appellate Division decisions, New Jersey courts have determined, in reliance on Soto, the Interim Report and/or statistical data, that defendants challenging the validity of motor vehicle stops and/or the admissibility of evidence seized in the course of those steps were entitled to discovery of law enforcement statistical data in order to determine whether or not the stops and searches of their motor vehicles were attributable to racial profiling. See, e.g., State v. Gonzalez, 382 N.J. Super. 27, 31-32 (App. Div. 2005); State v. Ball, 381 N.J. Super. 545, 562-63 (App. Div. 2005); State v. Clark, 345 N.J. Super. 349, 358-59 (App. Div. 2001); State v. Ballard, 331 N.J. Super. 529, 547-48 (App. Div. 2000); State v. Kennedy, 247 N.J. Super. 21, 25 (App. Div. 1991).

Significant evidence indicates that the problem of racial profiling of automobile drivers by police continues in New Jersey. For example, the most recent report from the Office of Law Enforcement Professional Standards (OLEPS) concluded that "[t]hough there was a considerable increase in the volume of probable cause searches [over the reporting period], this increase was not consistent across racial/ethnic groups. Black drivers were involved in the largest number and percentage increase of probable cause searches." Office of Law Enforcement Professional Standards, Fifteenth Aggregate Report of Traffic

Enforcement Activities of the New Jersey State Police 191 (Aug. 2018). Previous OLEPS reports had shown similar trends. The twelfth report found that Black drivers were disproportionately likely to be asked to exit their vehicles, frisked, have their vehicles searched, and/or be arrested.⁸ Office of Law Enforcement Professional Standards, Twelfth Aggregate Report of Traffic Enforcement Activities of the New Jersey State Police 152 (Oct. 2016).

New Jersey is not alone in having minority drivers disproportionately likely to face traffic stops. A June 25, 2017 story in the *Asbury Park Press* reported that "Latino and [B]lack drivers were more likely than white drivers to be ticketed by New Jersey State Troopers in the eight years since federal monitoring of the State Police ended [i.e., 2009-2017]." Susanne Cervenka, NJ State Police More Likely to Give White Drivers a Pass, Latino Drivers Tickets, *Asbury Park Press*, June 25, 2017. The story, based on a national study by Stanford University that reviewed nearly 93 million traffic stops by 21 state police agencies and 29 municipal police departments from 2001 to 2017, reported that in New Jersey Latino drivers were ten percent more likely than white drivers to receive a summons,

⁸ The twelfth OLEPS report concludes that some of this disproportion may be attributable to the fact that Black drivers were more likely to have outstanding warrants than white drivers. Id.

and Black drivers were three to six percent more likely to receive a summons than white drivers.⁹ Ibid. These trends echo Stanford's data nationally, which indicates that people of color are more likely to be stopped and have their vehicles searched than white drivers. Ibid.

Local studies provide a microcosm of these national and statewide findings. An analysis by Seton Hall law students of Bloomfield, New Jersey, a diverse suburban municipality in North Jersey, evaluated the racial breakdown of defendants who appeared in Bloomfield Municipal Court over a four-week period in October and November 2015. The vast majority of those defendants were responding to citations for motor vehicle traffic offenses. Mark P. Denbeaux, et al., Racial Profiling Report: Bloomfield Police and Bloomfield Municipal Court, Seton Hall Univ. School of Law, Center for Policy & Research 2 (April 2016). The study noted that Bloomfield's population at that time was 60% white, 18.5% Black and 24.5% Latino. Id. While acknowledging that a significant number of defendants resided in communities adjacent to Bloomfield, the study's organizers were astonished to learn that the racial breakdown of defendants during the period of observation was 43% Black, 35% Latino, 20%

⁹The data was compiled by Stanford's Open Policing Project. All of the data, including information on nearly 3.9 million traffic stops by the New Jersey State Police, is available on the Open Policing Project's website: <https://openpolicing.stanford.edu/>.

white and 2% other - resulting in "African-Americans and Latinos account[ing] for an astounding 78% of court appearances." Id. at 2-3.

2. **The Data Shows That People of Color are Disproportionately Stopped for Violations of N.J.S.A. 39:3-33**

The data analysis provided by Defendant in his January 6, 2020 letter brief and appendix demonstrates that N.J.S.A. 39:3-33 is enforced disproportionately against people of color. See Da11-12. As stated by Defendant, according to the 2016 data,¹⁰ although whites were 74% of New Jersey's population, they accounted for only 56% of State Police stops for violations of N.J.S.A. 39:3-33. In contrast, in 2016, only 15% of New Jerseyans were Black, yet Black drivers were subject to 25% of the State Police's stops for violations of N.J.S.A. 39:3-33. [Da12]. Clearly N.J.S.A. 39:3-33 is being enforced in a discriminatory matter by the State Police and it almost certainly is by other law enforcement agencies as well.

Importantly, the data analysis shows that the disparity does not simply exist in the traffic stops, but also in the post-stop activity. This data shows that once drivers are stopped for a non-moving violation such as a violation of

¹⁰ OLEPS is two years behind on reporting data to the public about its traffic enforcement activities. Similarly, the State Police Office of Professional Standards is two years behind in reporting its internal affairs summaries to the public and the Legislature.

N.J.S.A. 39:3-33, Blacks and non-white drivers are ordered to exit their vehicles, arrested, charged, or charged with obstruction at *drastically* higher rates than white drivers.

[Da12]. As stated by the OLEPS Report itself:

While white drivers were involved in 59% of all stops . . . , they were involved in only 40% of stops with post-stop activities and thus underrepresented in these stops. Conversely, Black drivers were overrepresented among stops with post-stop activity; they were involved in 20% of all stops but 39% of stops with post-stop activity. To a lesser extent, Hispanic drivers were also overrepresented, making up 14% of all stops and 17% of stops with post-stop activity. Among stops with post-stop activity, Asian drivers were 3%, underrepresented compared to their 6% of all motor vehicle stops. Other drivers were involved in 1% of all stops and stops with post-stop activity. American Indian drivers were involved in less than 1% of both total stops and stops with post-stop activity.

[Fifteenth Aggregate Report of Traffic Enforcement Activities of the New Jersey State Police 49 (Aug. 2018).]

Now more than ever is the time for lawmakers, law enforcement agencies, and courts to carefully scrutinize our criminal and quasi-criminal laws and how they disproportionately impact people of color. The data above shows that N.J.S.A. 39:3-33 has been used to stop Blacks and Latinos at higher rates than white drivers and the same is true for numerous other statutes. This Court has the full authority to strictly construe N.J.S.A. 39:3-33 against the State and in

favor of the Defendant. See State v. Wooten, 73 N.J. 317, 326 (1977). It is long-recognized that even if a proposed reading favoring a defendant is not the "most reasonable" interpretation, so long as "it is a permissible one," then the rule of lenity requires its adoption. United States v. Farrell, 126 F.3d 484 (3d Cir. 1997). Undoubtedly, the interpretation of N.J.S.A. 39:3-33 reached by the Appellate Division in Roman-Rosado, 462 N.J. Super. at 198, is "permissible" and therefore it should be adopted. This is especially true given that the Roman-Rosado decision better comports with the statute's legislative purpose than the Appellate Division's decision in this case does. See Point I(A) (1), supra.

C. The Appellate Division's Decision Implicates the First Amendment

Any decision that penalizes someone for obscuring the words "Garden State" on New Jersey license plates runs afoul of the First Amendment because it could be considered "compelled speech."¹¹ The United States Supreme Court has struck down laws that impermissibly compelled speech. Examples of prohibited compelled speech include: a state law which required children to

¹¹ Article I, Paragraph 6 of the New Jersey Constitution states: "No law shall be passed to restrain or abridge the liberty of speech or of the press." To interpret principles of free speech, our courts rely upon federal constitutional principles. Hamilton Amusement Ctr. v. Verniero, 156 N.J. 254, 264 (1998).

salute the flag; laws that require newspapers to provide space to political candidates; and state laws that penalize individuals for blocking portions of their license plates which bear the state motto. See W.V. State Bd. of Educ. v. Barnetts, 319 U.S. 624 (1943); Miami Herald Publ'g Co. v. Tornillo, 418 U.S. 241 (1974); Wooley, 430 U.S. 705.

In Wooley, the Supreme Court concluded that the Federal Constitution prohibited a state from requiring that the state motto be displayed on license plates. In that case, New Hampshire had a statute that required every non-commercial license plate to include the state motto, "Live Free or Die." Wooley, 430 U.S. at 707. The plaintiff was a Jehovah's Witness who found the motto repugnant to their moral, political, and religious beliefs and therefore he covered it up on his license plate. Id. at 708. He was convicted of violating the statute three separate times and, after refusing to pay the fines, served jail time. Ibid. The plaintiff thereafter brought an action seeking to have the statute declared unconstitutional. Ibid.

The Court concluded that a State may not "constitutionally require an individual to participate in the dissemination of an ideological message by displaying it on his private property in a manner and for the express purpose that it be observed and read by the public." Id. at 713. The Court noted that the New

Hampshire statute essentially required the plaintiff to “use their private property as a ‘mobile billboard’ for the State’s ideological message or suffer a penalty.” Id. at 715. By requiring an individual to display a statement that he finds unacceptable, the State had “invade[d] the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control.” Id. at 715. Although the Court recognized that most residents of New Hampshire likely did not find the motto objectionable, “[t]he First Amendment protects the right of individuals to hold a point of view different from the majority and to refuse to foster, in the way New Hampshire commands, an idea they find morally objectionable.” Ibid.

Having found that the First Amendment was implicated, the Court next looked to the State’s “countervailing interest” to determine if it was “sufficiently compelling to justify requiring appellees to display the state motto on their license plates.” Id. at 716. The State maintained that display of the motto “facilitate[d] the identification of passenger vehicles” and “promote[d] appreciation of history, individualism, and state pride.” Ibid. The Court found neither justification sufficient. It concluded that vehicle identification could be achieved in a more narrowly tailored manner and that “where the

State's interest is to disseminate an ideology,^[12] no matter how acceptable to some, such interest cannot outweigh an individual's First Amendment right to avoid becoming the courier for such message." Id. at 717.

One might suggest that the phrase "Garden State" is not "ideological" the way the phrase "Live Free or Die" is, but it is in the sense that, like the New Hampshire statute, it was required to be imprinted on license states to promote appreciation of the State's farming industry. The fact that most people might not find the phrase objectionable today does not mean that penalizing someone for covering the phrase up does not raise First Amendment concerns, as the First Amendment is intended to protect unpopular opinions. Moreover, the original placement of "Garden State" upon license plates was in fact something that some New Jerseyans strongly opposed, including the two Governors who vetoed the bill. Governor Meyner in particular objected to "Garden State" being imprinted upon license plates for content reasons; he did not believe that the average New Jerseyan regarded the state as "peculiarly identifiable with gardening or farming" and felt that other industries were just as worthy of inclusion. [Aa6].

¹² In contrast, registration letters and numbers are not ideological statements and statutes requiring them to be printed upon license plates are narrowly tailored to serve the state's legitimate interest in ensuring that all vehicles on the road are registered.

Several newspapers also printed editorials in 1953 and 1954 ridiculing the Legislature's attempt to imprint "Garden State" on license plates and praising both Governors for vetoing the bills. See, e.g., Not Necessary, The Herald-News, Aug. 18, 1953, at 10 (stating that Governor Driscoll was "right" to veto adding the slogan because adding them adds no benefit and a "license plate has an important job to do and should do it well and stop there") [Aa17]; Job Enough!, The Record, Aug. 5, 1954, at 38 (opining that "Governor Meyner did a good job briskly enough when he vetoed a bill by Assemblyman Haines (R., Burlington) dictating that the legend "Garden State" be jammed on automobile license plates.") [Aa18]; It Deserved the Veto, at 10 ("The phrase would serve no useful purpose on the plate. Its advertising value is dubious, if not non-existent. . . . our sympathy goes out to [the Governor]" for being forced, by an amiable Legislature which doesn't give a hoot, into a position of offending powerful farm groups by using the veto on a piece of legislation as silly and trivial as this.") [Aa10]. As the editorial board of the *Courier-News* opined:

Somebody or other has been spending a lot of energy worthy of a better cause in trying to have this legend on our license tags, and only a year ago Gov. Driscoll vetoed another bill for the same purpose.

At that time Driscoll quite rightly said that auto tags have one reason—identification of the car—and that to print

unnecessary slogans or catchwords on them took up valuable space.

Gov. Meyner now adds, in vetoing the 1954 bill, that only 2.4 percent of New Jersey's workers are engaged in farming. Though he hails from an agricultural county, Meyner seems to be saying that he considers "Garden State" is an inappropriate description of our fair commonwealth—which may inspire some "letters to the editor" from citizens resenting such an inference.

['Garden State' Car Tag Bill Gets Well-Merited Veto, Courier-Post, Aug. 3, 1954, at 10 [Aa19].]

Accordingly, penalizing someone for covering the words "Garden State" on a license plate implicates the First Amendment and is compelled speech. This Court should avoid interpretations that run afoul of the First Amendment and might punish someone who objects to the slogan and covers it up.

II. THIS COURT SHOULD REJECT THE UNITED STATES SUPREME COURT'S HOLDING IN HEIEN V. NORTH CAROLINA BECAUSE OUR CONSTITUTION PROVIDES GREATER PROTECTION

Amicus adopts the arguments of ACLU-NJ and asks this Court to reject the U.S. Supreme Court's holding in Heien v. North Carolina, 574 U.S. 54 (2014).

CONCLUSION

This Court should reverse the Appellate Division's decision.

Respectfully Submitted,

/s CJ Griffin
CJ GRIFFIN

VETO MESSAGES

OF

HON. ALFRED E. DRISCOLL

Governor of New Jersey



SUBMITTED TO THE SENATE AND THE GENERAL
ASSEMBLY OF THE STATE OF NEW JERSEY

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amount due. In the case of a judgment arising under the present statute the Division of Employment Security is required to take formal action to make a certificate stating the amount of the employer's indebtedness and describing the liability under the statute. Once a judgment is entered it is a matter of record and the employer has a complete remedy by statute to have it set aside and discharged. It is his own failure to act rather than any inchoate lien of the State which may cause the lien of the judgment to remain unsatisfied for any period longer than ten years. It is also noted that this measure is in conflict with Senate Bill No. 396, which has already been approved.

Accordingly, I am constrained to return Assembly Bill No. 237 without my approval.

Respectfully,

[SEAL] ALFRED E. DRISCOLL, Governor.
Attest: RUSSELL E. WATSON, JR., Secretary to the Governor.

STATE OF NEW JERSEY, }
EXECUTIVE DEPARTMENT, }
August 17, 1953. }

COMMITTEE SUBSTITUTE FOR ASSEMBLY BILL No. 250

To the General Assembly:

I am returning herewith, without my approval, Committee Substitute for Assembly Bill No. 250, for the following reasons:

Having the laudable purpose of advertising the natural advantages of our great State, this bill would require passenger car motor vehicle registration plates to be imprinted with the words "Garden State." There might be some advantages to be derived from this form of embellishment of motor vehicle license plates, but upon full consideration I am impressed with the disadvantages. In order to achieve the result desired by the bill, it will be necessary to have larger license plates at extra cost and perhaps some in-

convenience to motorists, since any reduction in the size of the present lettering could not be considered. The registration plate itself, moreover, is an important legal device evidencing compliance with the laws of the State of New Jersey, and it should be confined to that purpose without the detraction of any mottoes or phrases. The doubtful quality of the advertising that might be expected from the proposal does not, in my judgment, warrant either the increased cost or the possible loss of public appreciation of the purpose of the license plates.

Accordingly, I am constrained to return the bill without my approval.

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
Attest: Governor.
RUSSELL E. WATSON, JR.,
Secretary to the Governor.

STATE OF NEW JERSEY, }
EXECUTIVE DEPARTMENT, }
August 17, 1953. }

ASSEMBLY BILL No. 266

To the General Assembly:

I am returning herewith, without my approval, Assembly Bill No. 266, for the following reasons:

There appears to be an irreconcilable conflict between this bill and Assembly Bill No. 433. In order to achieve the objectives of the present measure, the provisions of both bills have been incorporated in the amendments in my message returning Assembly 433, without my approval.

Accordingly, I am constrained to return Assembly Bill No. 266 without my approval.

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
Attest: Governor.
RUSSELL E. WATSON, JR.,
Secretary to the Governor.

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Motor vehicle license plates--
"Garden State"

NJSA: 39:3-33.2

LAWS OF: 1954 **CHAPTER:** 221

BILL NO: A454

SPONSOR(S): Haines

DATE INTRODUCED: May 24, 1954

COMMITTEE: **ASSEMBLY:** Highways
SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 10, 1954 Over-ridden 11-22-54
SENATE: June 21, 1954 Over-ridden 12-6-54

DATE OF APPROVAL: August 2, 1954

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: No

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

ASSEMBLY, No. 454

STATE OF NEW JERSEY

INTRODUCED MAY 24, 1954

By Mr. HAINES

Referred to Committee on Highways, Transportation and Public Utilities

AN ACT concerning motor vehicles, and supplementing article 2 of chapter 3
of Title 39 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. The Director of the Division of Motor Vehicles in the Department of
2 Law and Public Safety shall, upon the occasion of the next and each subse-
3 quent general issue of passenger car motor vehicle registration license plates,
4 cause to be imprinted thereon in addition to other markings which he shall
5 prescribe, the words "Garden State."

1 2. This act shall take effect immediately.

STATEMENT

This bill is identical to a bill passed by the 1953 Legislature and vetoed by the Governor. The veto message stated the present size of New Jersey license plates did not afford space for the legend.

In April of 1956 there will be a general re-issue of motor vehicle license plates and it is anticipated they will be larger than the present plates in conformity with recommendations of the Interstate Traffic Code.

Preparation of the 1956 licenses will commence at the end of this year.

VETO MESSAGES

OF

HON. ROBERT B. MEYNER

Governor of New Jersey



**SUBMITTED TO THE SENATE AND THE GENERAL
ASSEMBLY OF THE STATE OF NEW JERSEY**

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periods is in accord with the socially desirable goal, recognized today, of expeditious payment of wages to all workers.

Most of the common carriers by air operating in this State are in fact paying their New Jersey employees on a weekly basis, I am reliably advised. The State Department of Labor and Industry has, since 1953, carried out a vigorous drive to enforce the provisions of R. S. 34:11-4. To deprive the aircraft carrier employees of weekly pay periods would work a substantial hardship, discriminating against such workers without valid cause. There may be convenience and economy to the air lines in 24 instead of 52 payrolls per year. The same contention could be advanced for a special exemption in favor of every person and firm hiring workers in the State of New Jersey. I know of no justification for such preferential treatment of one particular business.

Accordingly, I return Assembly Bill No. 421 herewith, without my approval.

Respectfully,

ROBERT B. MEYNER,
Governor.

[SEAL]
Attest:

ROBERT J. BURKHARDT,
Secretary to the Governor.

STATE OF NEW JERSEY, }
EXECUTIVE DEPARTMENT, }
August 2, 1954. }

ASSEMBLY BILL No. 454

To the General Assembly:

I am returning herewith, without my approval, Assembly Bill No. 454, for the following reasons:

This bill provides that the Director of the Division of Motor Vehicles shall, upon the occasion of the next and each subsequent general issue of passenger car motor vehicle registration license plates, cause to be imprinted thereon the words "Garden State".

A bill similar to this was vetoed by Governor Driscoll in 1953. He said "the registration plate itself, moreover, is

an important legal device evidencing compliance with the laws of the State of New Jersey and it should be confined to that purpose without the detraction of any mottoes or phrases". Governor Driscoll's point of view might be refuted if there existed either an official basis for the designation of New Jersey as "Garden State" or if the gardening or farming industry was the overwhelmingly predominant feature of the State's economy. I refer, for example, to the designation on the Wisconsin license plates of that state as "America's Dairyland".

My investigation discloses that there is no official recognition of the slogan "Garden State" as an identification of the State of New Jersey. It is, moreover, obvious that New Jersey's place in the economy and life of the nation is today attributable to its preeminence in many fields, in addition to its acknowledged high standing in agricultural pursuits. Statistically, only 2.4 percent of our workers are employed on farms while 97.6 per cent are engaged in non-agricultural occupations. New Jersey is noted for its great strides in manufacturing, mining, commerce, construction, power, transportation, shipping, merchandising, fishing and recreation, as well as in agriculture. I do not believe that the average citizen of New Jersey regards his state as more peculiarly identifiable with gardening or farming than any of its other industries or occupations. Indeed many of our people regard the state as preeminently a residential community.

For the reasons set forth hereinabove, I cannot concur in the view that such justifiable purpose is served by the bill in question as would outweigh the obvious disadvantage of reducing the space on the metal license plates available for the official registration designation.

Accordingly, I am constrained to return Assembly Bill No. 454 without my approval.

Respectfully,

[SEAL]
Attest: ROBERT B. MEYNER,
Governor.
ROBERT J. BURKHARDT,
Secretary to the Governor.

<h2 style="text-align: center;">‘Garden State’ May Appear on New License Plates in New Jersey</h2> <p>The New Jersey Farm Bureau announced today that C. William Haines, farmer-assemblyman from Burlington County, is preparing a bill for introduction into the State Legislature which if approved will place the words “Garden State” on New Jersey’s motor vehicle license plates.</p> <p>Such a bill passed both houses of the Legislature last year but failed to become law because it was vetoed by Governor Driscoll. One of the reasons given for the veto was the small size of the New Jersey plates.</p> <p>Farm Bureau President, Herbert Voorhees, stated that the next general issue of license plates will be for the 1956 license year. The plates issued at that time, he said, would be somewhat larger than those now in use.</p> <p>Voorhees expressed the farm organization’s full approval of the proposed bill and stated that New Jersey had long been known as the “Garden State” and that she could now boast of record production of quality garden-type fruits and vegetables.</p>	<p>O M S T Ind thro can eno “ mor tha yea Jr., Pet “M ann the if sur M fac mo min con</p>
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Clipped By:

It Deserved the Veto

THE New Jersey Farm Bureau News expresses sorrow because Governor Meyner vetoed a bill to have "Garden State" appear on the New Jersey license plate. On the contrary, we wish to compliment the Governor for the veto.

The phrase would serve no useful purpose on the plate. Its advertising value is dubious, if not non-existent. Moreover, the words would create a problem. They would have to be squeezed onto the plate at the expense of the letters and numerals.

The license plate has one function. It is an identification tag. The best plate is the one that can be read quickly and easily. This means it should not be cluttered with distracting non-essentials.

Of course, right now it is a fad with certain states to brag about themselves on their license plates. Thus it is possible by perusing plates to learn that New York is the "Empire State". So, we ask, what does this accomplish for the great State of New York except to foul up an already crowded license plate?

No, we'll go along with the Governor on this one. Furthermore, our sympathy goes out to him for being forced, by an amiable Legislature which doesn't give a hoot, into a position of offending powerful farm groups by using the veto on a piece of legislation as silly and trivial as this.

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DOWN THE SHORE***DOWN THE SHORE; Oh Yeah? Some Folks Take The Garden State Seriously*****By Bill Kent**

Jan. 21, 2001

Douglas Hallock wasn't going to bet his 300-acre farm in New Egypt, or even his pocket change for that matter, at the Taj Mahal Casino Resort.

"You gamble enough with what you put into the field," said Mr. Hallock, who was dressed in blue jeans, flannel shirt and a baseball cap with the words "pick-your-own" on the front.

Mr. Hallock and his brother Charlie were among about 2,000 regional farmers and others in the agricultural field picking their way through New Jersey Vegetable Growers Association's 45th annual trade show here last week. Lured by the chance to attend such seminars as Bramble Weed Management, Practical Fencing and What Caused My Lettuce to Bolt This Time, Mr. Hallock said the show was "pretty important if you're growing anything in New Jersey in a major way."

"We have grown 42 crops over the season, not to mention what we do with our greenhouses," he said. "With so much going on, you want to be up on the latest procedures and scientific developments. Every year they come out with new hybrids, new fertilizers, pesticides that are safer or more specific to what your problem is."

Staying current, noted the show's coordinator, Rocky DiGerolamo, who attended the first meeting in 1956 at the Deauville Hotel here, "can make or break a grower."

"This show gets farmers from Bermuda, Maine, Michigan, all over the East Coast," Mr. DiGerolamo said. "But every year, we see fewer and fewer farmers. With all the new trends and new developments, the one thing that doesn't change is that farming is a hard way to make a living. It's still the kind of business where you have to make every penny count."

According to the New Jersey Agriculture Department, the state has about 9,600 working farms spread over 830,000 acres. In 1998, those farms accounted for \$829 million in sales, with nearly 40 percent of that coming not from cash crops like tomatoes and corn, but from greenhouse and nursery products like flowering plants, sod, shrubs and Christmas trees.

FILED, Clerk of the Supreme Court, 23 Nov 2020, **083221**

"Whatever you're going to grow is going to need water," said Mike Cerrato of the Lee Rain irrigation company in Vineland, who was also selling Massey Ferguson tractors.

Mr. Cerrato said that the show here was the most important of the six that his company attended because farming "is still a family business in this part of the country."

Because nursery plants are especially finicky about how much water they need, a modern irrigation system can be a farmer's most expensive purchase. "Drip technology consisting of plastic tubing punctured with tiny holes that is then buried close enough to the crops to deliver water directly to their roots can cost anywhere from \$500 to \$1 million, depending how much acreage you've got," Mr. Cerrato explained.

Considerably less expensive were the 10- to 50-foot-tall inflatable corn, tomato, sunflower, scarecrow or turkey "cold air" balloons at the DesignScapes booth. Joan Kreiger, an office manager for the Philadelphia company, said that "for a few thousand dollars, you'll have something that'll back cars up on the road in front of your market."

"For a lot of farmers, it's no longer about what they grow," said Ms. Kreiger. "There's the entertainment aspect."

As 4-year-old Edward Kertz Jr. tried out the Moonbounce -- an inflatable trampoline -- and found it "pretty good," his mother, Lori, doubted if she and her husband Ed would ever bring one to their 30-acre farm in Galloway Township. "We're more interested in the newer hybrids of seeds," said Mrs. Kertz. "We grow peppers, zucchinis and winter squash and spend between \$1,000 to \$2,000 each year on seeds. You can spend more on equipment and fertilizer, but seeds really are the most important investment you can make."

Under a trio of inflatable red ladybugs, Kristian Holmstrom was passing out information about the Rutgers extension department's integrated pest-management program.

"For every bug you don't want, there's a bird or an animal or another bug that will go after it," said Mr. Holmstrom. "The longer you wait to put on the chemicals, the better your chances are that good bugs will go after the bad."

The good news, Jim Johnson at the New Jersey Farm Bureau booth said proudly, was a new state license plate designed and sponsored by farmers. "We were getting worried when the other license plates coming out without having the Garden State on them," he said, "so we raised the \$50,000 it costs to get the state to commit to a new plate. We raised it entirely from the farm community. It took a year and a half, but it's finally coming out in the spring."

Though most farmers liked the plate, Mr. Johnson admitted that others "aren't exactly happy with it."

"FILED, Clerk of the Supreme Court, 23 Nov 2020, 083221

"We had illustrations of vegetables, a house, a field and a barn on the plate, and then some folks got mad because we didn't have a cow," he said. "I told them there's a barn on the plate, right? Where are your cows most of the the time? In the barn, right?"

ASSEMBLY, No. 895

STATE OF NEW JERSEY

209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

Co-Sponsored by:

Assemblywoman Murphy and Assemblyman Lance

SYNOPSIS

Establishes special license plate to promote agriculture.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A895 BATEMAN, BIONDI

1 AN ACT concerning special license plates and supplementing chapter
2 3 of Title 39 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Director of the Division of Motor Vehicles shall, upon
8 proper application therefor, issue "Promote Agriculture" license plates
9 for any motor vehicle owned or leased and registered in the State.
10 Under this act, any motor vehicle shall include, in addition to
11 passenger motor vehicles, all commercial, farm use and farm vehicles
12 issued registration or license plates pursuant to R.S.39:3-20, R.S.39:3-
13 24 or R.S.39:3-25. In addition to the registration number and other
14 markings prescribed by law, a "Promote Agriculture" license plate
15 shall display the words "Garden State" and an emblem indicating
16 interest in agriculture in New Jersey. The license plate shall be
17 designed by the director, in consultation with the New Jersey Farm
18 Bureau. Issuance of the "Promote Agriculture" license plates in
19 accordance with this section shall be subject to the provisions of
20 chapter 3 of Title 39 of the Revised Statutes, except as hereinafter
21 otherwise specifically provided.

22
23 2. An application for issuance of a "Promote Agriculture" license
24 plate shall be accompanied by a fee of \$15, in addition to the fees
25 otherwise required by law for the registration of the motor vehicle.

26
27 3. a. The director shall annually certify the average cost per license
28 plate incurred in the immediately preceding year by the division in
29 producing and publicizing the availability of the "Promote Agriculture"
30 license plates.

31 b. In the event that the average cost per license plate, as certified
32 by the director and approved by the Joint Budget Oversight
33 Committee, or its successor, is greater than the application fee
34 established in section 2 of P.L. , c. (C.) (now pending
35 before the Legislature as this act) in two consecutive fiscal years, the
36 director may increase the fee for a "Promote Agriculture" license plate
37 to an amount which, as certified by the director and approved by the
38 Joint Budget Oversight Committee, or its successor, is equal to the
39 average cost per license plate.

40
41 4. The director shall notify eligible motorists of the opportunity to
42 obtain "Promote Agriculture" license plates by including a notice with
43 all motor vehicle registration renewals, and by posting appropriate
44 posters or signs in all division facilities and offices. The notices,
45 posters, and signs shall be designed by the director after consultation
46 with the New Jersey Farm Bureau.

A895 BATEMAN, BIONDI

1 5. This act shall take effect on the 180th day after enactment, but
 2 the Director of the Division of Motor Vehicles may take such
 3 anticipatory acts in advance of that date as may be necessary for the
 4 timely implementation of this act.

5

6

7

STATEMENT

8

9 This bill would establish a special "Promote Agriculture" license
 10 plate with the purpose of publicizing and focusing the public's
 11 attention on agriculture in the Garden State. The plate would bear the
 12 words "Garden State" and an emblem designed by the Director of the
 13 Division of Motor Vehicles (DMV) in consultation with the New
 14 Jersey Farm Bureau. The plates would be available to all passenger
 15 motor vehicles as well as commercial, farm use and farm vehicles.

16 The fee for such a plate would be \$15 in addition to the standard
 17 registration fees. These monies would be used to offset the costs
 18 associated with producing and publicizing the availability of the
 19 "Promote Agriculture" license plates and any initial computer
 20 programming fees which may be necessary to implement the "Promote
 21 Agriculture" license plates.

22 If, after two consecutive fiscal years, the cost of the plate is greater
 23 than the application fee, the bill authorizes DMV to increase the
 24 license plate fee to equal the certified average cost per license plate.
 25 The average cost must be certified by the director and approved by the
 26 Joint Budget Oversight Committee before it can be increased.

27 The food and agriculture industry is one of New Jersey's largest,
 28 ranking after pharmaceuticals and tourism in the economic benefits it
 29 brings to the State. There are approximately 9,400 farms throughout
 30 the State, with productive farmland covering nearly one million acres
 31 or about 20 percent of New Jersey's land area. Many of the State's
 32 farms are family-owned and operated. The "Promote Agriculture"
 33 license plate would help illustrate the State's support for the continued
 34 prosperity of the family farm in New Jersey.

Not Necessary

NEW JERSEY license plates aren't going to be cluttered up with the very uninspiring announcement that ours is "The Garden State". The Governor has seen to that with his veto of a bill ordering the inscription to be placed on the plate.

That's good. If the trend toward placing slogans on license plates continues, New Jersey plates will eventually stand out because they've remained registration plates, pure and simple. What benefit New York or New Yorkers derive from the legend, "The Empire State", on their license plates we can't fathom. And what valuable purpose is served by such slogans as "The Peach State" (Georgia), "The Sunshine State" (Florida), "America's Dairyland" (Wisconsin), "The Land of Opportunity" (Arkansas) and "Tour Kentucky" (Kentucky)?

Governor Driscoll said that adding a slogan would cost money, so economy was one reason for his disapproval. However, his principal point was that a license plate has an important job to do and should do it well and stop there. He's right.

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JOB ENOUGH!

Governor Meyner did a good job briskly enough when he vetoed a bill by Assemblyman Haines (R., Burlington) dictating that the legend "Garden State" be jammed on New Jersey automobile license plates. We're not persuaded he did this best thing for the best of reasons. Said the Governor:

I do not believe that the average citizen of New Jersey regards his State as being more peculiarly identifiable with gardening or farming than with any of its other industries or occupations.

But the average citizen does call his commonwealth the Garden State; to that extent the identification does exist. No; there's a better reason for keeping meaningless sloganeering and brag off license plates, and former Governor Driscoll invoked it last time he killed off this bill. The license plate has a job to do. It's a hard job and a necessary one. Let it do that job, and let it stop there.

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RICHARD
Maywood, Aug. 1

MANNERS AT
Editor, Bergen E

Dear Sir: One has put forth a s of effort in order of effort in order neck's reputation munity. Mr. Rod ly brought about development of g craft classes, and classes. He devo efforts to enlarge ground system by diversified activi dren to participi supervision. The League basebal dance program, also consume thi

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'Garden State' Car Tag Bill Gets Well-Merited Veto

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Gov. Meyner has just sent his first big batch of vetoes to the Legislature—some 80-odd.

For at least one of them, in The Courier-Post's opinion, he rates three cheers.

That is his veto of the bill which would have required the words "Garden State" to be stamped on all New Jersey automobile license plates.

Somebody or other has been spending a lot of energy worthy of a better cause in trying to have this legend put on our license tags, and only a year ago Gov. Driscoll vetoed another bill for the same purpose.

At that time Driscoll quite rightly said that auto tags have one reason—identification of the car—and that to print unnecessary slogans or catchwords on them took up valuable space.

Gov. Meyner now adds, in vetoing the 1954 bill, that only 2.4 percent of New Jersey's workers are engaged in farming.

Though he hails from an agricultural county, Meyner seems to be saying that he considers "Garden State" is an inappropriate description of our fair commonwealth—which may inspire some "letters to the editor" from citizens resenting such an inference.

The fact remains that both Driscoll and Meyner were on solid ground in vetoing the license plate slogan bill. That is true despite the fact that the trend of the moment is against them, and 20 states plus the District of Columbia have such slogans or, in a couple of instances, illustrations, on their tags.

Nearly all of them plumb such depths of inanity and asininity that it is hard to single out the worst offenders. Probably it's the D. C., which finds it necessary to tell the world, via its license plates, that it is "The Nation's Capital," lest otherwise no one would ever find out.

Metropolitan, cosmopolitan, supposedly sophisticated New York seems to think its fame and prestige are enhanced by advertising on its tags that it is "The Empire State."

Minnesota proclaims its "10,000 Lakes" on its tags, but it has competition from Michigan, the "Water Wonderland."

And North Carolina's plates tell you, in letters so small that if you're following an N. C. car you're far too close if you can read them—to "Drive Safely."

Thanks to both Driscoll and Meyner, New Jersey is saved from this kind of idiocy for at least another year. The rest of the nation, including other states which have a wee bit of agriculture themselves, will have to remain in blissful ignorance of our status—which Meyner seems to think is dubious anyway—as "The Garden State."

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