S T A T E O F N E W Y O R K

1543

2011-2012 Regular Sessions

I N S E N A T E

January 10, 2011

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the theft of a motor vehicle while a child is present therein

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 155.35 of the penal law, as amended by chapter 464 of the laws of 2010, is amended to read as follows:

S 155.35 Grand larceny in the third degree.

A person is guilty of grand larceny in the third degree when he or she steals property and WHEN:

1. [when] the value of the property exceeds three thousand dollars[,]; or

2. the property is an automated teller machine or the contents of an automated teller machine[.]; OR

3. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS PRESENT IN OR ON SUCH MOTOR VEHICLE.

Grand larceny in the third degree is a class D felony.

S 2. Section 155.42 of the penal law, as added by chapter 515 of the laws of 1986, is amended to read as follows:

S 155.42 Grand larceny in the first degree.

A person is guilty of grand larceny in the first degree when he OR SHE steals property and when [the]:

1. THE value of the property exceeds one million dollars[.]; OR

2. THE PROPERTY, REGARDLESS OF ITS VALUE, CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, IS OBTAINED BY EXTORTION COMMITTED BY INSTILLING IN THE VICTIM A FEAR THAT THE ACTOR OR ANOTHER PERSON WILL CAUSE PHYSICAL INJURY TO SOME PERSON, IN THE FUTURE, AND A CHILD UNDER THE AGE OF SIXTEEN YEARS IS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PRESENT IN OR ON SUCH MOTOR VEHICLE DURING THE COMMISSION OF SUCH OFFENSE.

Grand larceny in the first degree is a class B felony.

S 3. Section 160.15 of the penal law, as amended by chapter 374 of the laws of 1973, is amended to read as follows:

S 160.15 Robbery in the first degree.

A person is guilty of robbery in the first degree when he OR SHE forcibly steals property and when[, in]:

1. IN the course of the commission of the crime or of immediate flight therefrom, he, SHE or another participant in the crime:

[1.] (A) Causes serious physical injury to any person who is not a participant in the crime; or

[2.] (B) Is armed with a deadly weapon; or

[3.] (C) Uses or threatens the immediate use of a dangerous instrument; or

[4.] (D) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this [subdivision] PARAGRAPH, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this [subdivision] PARAGRAPH shall constitute a defense to a prosecution for, or preclude a conviction of, robbery in the second degree, robbery in the third degree or any other crime[.]; OR

2. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS PRESENT IN OR ON SUCH MOTOR VEHICLE.

Robbery in the first degree is a class B felony.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.