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

2510

2011-2012 Regular Sessions

I N  S E N A T E

January 24, 2011

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

AN ACT to amend the penal law and the vehicle and traffic law, in relation to unlawfully installing or possessing a concealed vehicular compartment

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

Section 1. The penal law is amended by adding two new sections 270.40 and 270.45 to read as follows:

S 270.40 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE SECOND DEGREE.

1. A PERSON IS GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE SECOND DEGREE WHEN SUCH PERSON KNOWINGLY:

(A) OWNS, OPERATES OR POSSESSES A VEHICLE CONTAINING A CONCEALED VEHICULAR COMPARTMENT; OR

(B) DESIGNS, INSTALLS, FABRICATES OR CREATES A CONCEALED VEHICULAR COMPARTMENT IN A VEHICLE.

2. AS USED IN THIS SECTION "CONCEALED VEHICULAR COMPARTMENT" MEANS A HIDDEN OR CONCEALED ENCLOSURE OR COMPARTMENT INTEGRATED INTO A VEHICLE THAT IS INTENDED OR DESIGNED TO BE USED TO TRANSPORT, CONCEAL, HIDE OR PREVENT DISCOVERY BY LAW ENFORCEMENT OFFICERS OF PROPERTY POSSESSED IN VIOLATION OF LAW, PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF A CRIME OR OF PERSONS IN VIOLATION OF LAW.

3. THERE SHALL BE A REBUTTABLE PRESUMPTION THAT A HIDDEN OR CONCEALED ENCLOSURE OR COMPARTMENT INTEGRATED INTO A VEHICLE IS INTENDED OR DESIGNED TO BE USED TO TRANSPORT, CONCEAL, HIDE OR PREVENT DISCOVERY BY LAW ENFORCEMENT OFFICERS OF PROPERTY POSSESSED IN VIOLATION OF LAW, PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF A CRIME OR OF PERSONS IN VIOLATION OF LAW WHEN THERE ARE FACTORS FROM WHICH SUCH INTENT OR DESIGN MAY REASONABLY BE INFERRED INCLUDING BUT NOT LIMITED TO

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

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THE DISCOVERY OF A PERSON, FIREARM, CONTROLLED SUBSTANCE OR OTHER CONTRABAND WITHIN SUCH COMPARTMENT OR THE DISCOVERY OF EVIDENCE OF THE PREVIOUS PLACEMENT OF A PERSON, FIREARM, CONTROLLED SUBSTANCE OR OTHER CONTRABAND WITHIN SUCH COMPARTMENT.

UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

S 270.45 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE FIRST DEGREE.

A PERSON IS GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE FIRST DEGREE WHEN SUCH PERSON COMMITS THE CRIME OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE SECOND DEGREE AND:

1. SUCH CONCEALED VEHICULAR COMPARTMENT OR THE VEHICLE IN WHICH IT IS INSTALLED IS EQUIPPED WITH AN EXPLOSIVE DEVICE OR OTHERWISE CREATES OR IS DESIGNED TO CREATE A SUBSTANTIAL RISK OF PHYSICAL INJURY TO A PERSON WHO ATTEMPTS UNWELCOME ACCESS OF SUCH COMPARTMENT; OR

2. SUCH CONCEALED VEHICULAR COMPARTMENT IS USED IN THE COMMISSION OF A CRIME OR TO CONCEAL EVIDENCE OF A CRIME.

UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN THE FIRST DEGREE IS A CLASS E FELONY.

S 2. Paragraphs (j) and (k) of subdivision 1 of section 398-e of the vehicle and traffic law, as amended by chapter 634 of the laws of 1980, are amended and a new paragraph (l) is added to read as follows:

(j) has knowingly issued a false or misleading estimate; [or]

(k) has engaged in a course of conduct which unreasonably impedes or delays a consumer's right to a fair recovery pursuant to the provisions of an automobile insurance policy, the insurance law or regulations issued by the superintendent of insurance governing the evaluation and adjustments of claims; OR

(L) HAS BEEN GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT IN VIOLATION OF SECTION 270.40 OF THE PENAL LAW.

S 3. The closing paragraph of subdivision 1 of section 398-e of the vehicle and traffic law, as amended by chapter 634 of the laws of 1980, is amended to read as follows:

For the purposes of paragraphs (g), (h), (i), (j) [and], (k) AND (L) of this subdivision, it shall be presumed that the actions of any employee of a motor vehicle repair shop shall be attributable to, and deemed to be the actions of, such motor vehicle repair shop.

S 4. This act shall take effect on the ninetieth day after it shall have become a law.