

4777

2011-2012 Regular Sessions

I N S E N A T E

April 25, 2011

Introduced by Sen. GOLDEN -- 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 criminal procedure law, in relation to criminal possession of a weapon upon school grounds or on a school bus; and to repeal subdivision 3 of section 265.01 of the penal law relating thereto

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

1 Section 1. Subdivision 3 of section 265.01 of the penal law is
2 REPEALED.
3 S 2. The penal law is amended by adding a new section 265.07 to read
4 as follows:
5 S 265.07 CRIMINAL POSSESSION OF A WEAPON UPON SCHOOL GROUNDS OR ON A
6 SCHOOL BUS.
7 A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A WEAPON UPON SCHOOL
8 GROUNDS OR SCHOOL BUS WHEN HE OR SHE KNOWINGLY HAS IN HIS OR HER
9 POSSESSION A RIFLE, SHOTGUN OR FIREARM IN OR UPON A BUILDING OR GROUNDS,
10 USED FOR EDUCATIONAL PURPOSES, OF ANY SCHOOL, COLLEGE OR UNIVERSITY,
11 EXCEPT THE FORESTRY LANDS, WHEREVER LOCATED, OWNED AND MAINTAINED BY THE
12 STATE UNIVERSITY OF NEW YORK COLLEGE OF ENVIRONMENTAL SCIENCE AND FORES-
13 TRY, OR UPON A SCHOOL BUS AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF
14 THE VEHICLE AND TRAFFIC LAW, WITHOUT THE WRITTEN AUTHORIZATION OF SUCH
15 EDUCATIONAL INSTITUTION.
16 CRIMINAL POSSESSION OF A WEAPON UPON SCHOOL GROUNDS OR ON A SCHOOL BUS
17 IS A CLASS E FELONY.
18 S 3. Subdivision 2 of section 265.15 of the penal law, as amended by
19 chapter 1041 of the laws of 1974, is amended to read as follows:
20 2. The presence in any stolen vehicle of any weapon, instrument,
21 appliance or substance specified in sections 265.01, 265.02, 265.03,
22 265.04 [and], 265.05 AND 265.07 is presumptive evidence of its

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

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possession by all persons occupying such vehicle at the time such weapon, instrument, appliance or substance is found.

S 4. The opening paragraph of subdivision a of section 265.20 of the penal law, as amended by chapter 496 of the laws of 1991, is amended to read as follows:

Sections 265.01, 265.02, 265.03, 265.04, 265.05, 265.07, 265.10, 265.11, 265.12, 265.13, 265.15 and 270.05 shall not apply to:

S 5. The opening paragraph of paragraph 1 of subdivision a of section 265.20 of the penal law, as amended by chapter 1041 of the laws of 1974, is amended to read as follows:

Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.02, 265.03, 265.04, 265.05, 265.07 and 270.05 by the following:

S 6. Paragraph 3 of subdivision a of section 265.20 of the penal law, as amended by chapter 210 of the laws of 1999, is amended to read as follows:

3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00 or 400.01 of this chapter; provided, that such a license shall not preclude a conviction for the offense defined in [subdivision three of] section [265.01] 265.07 of this article.

S 7. Paragraph (b) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, criminal sexual act in the third degree as defined in section 130.40 of the penal law, criminal sexual act in the second degree as defined in section 130.45 of the penal law, criminal sexual act in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary

1 in the second degree as defined in section 140.25 of the penal law,
2 burglary in the first degree as defined in section 140.30 of the penal
3 law, criminal mischief in the third degree as defined in section 145.05
4 of the penal law, criminal mischief in the second degree as defined in
5 section 145.10 of the penal law, criminal mischief in the first degree
6 as defined in section 145.12 of the penal law, criminal tampering in the
7 first degree as defined in section 145.20 of the penal law, arson in the
8 fourth degree as defined in section 150.05 of the penal law, arson in
9 the third degree as defined in section 150.10 of the penal law, arson in
10 the second degree as defined in section 150.15 of the penal law, arson
11 in the first degree as defined in section 150.20 of the penal law, grand
12 larceny in the fourth degree as defined in section 155.30 of the penal
13 law, grand larceny in the third degree as defined in section 155.35 of
14 the penal law, grand larceny in the second degree as defined in section
15 155.40 of the penal law, grand larceny in the first degree as defined in
16 section 155.42 of the penal law, health care fraud in the fourth degree
17 as defined in section 177.10 of the penal law, health care fraud in the
18 third degree as defined in section 177.15 of the penal law, health care
19 fraud in the second degree as defined in section 177.20 of the penal
20 law, health care fraud in the first degree as defined in section 177.25
21 of the penal law, robbery in the third degree as defined in section
22 160.05 of the penal law, robbery in the second degree as defined in
23 section 160.10 of the penal law, robbery in the first degree as defined
24 in section 160.15 of the penal law, unlawful use of secret scientific
25 material as defined in section 165.07 of the penal law, criminal
26 possession of stolen property in the fourth degree as defined in section
27 165.45 of the penal law, criminal possession of stolen property in the
28 third degree as defined in section 165.50 of the penal law, criminal
29 possession of stolen property in the second degree as defined by section
30 165.52 of the penal law, criminal possession of stolen property in the
31 first degree as defined by section 165.54 of the penal law, trademark
32 counterfeiting in the second degree as defined in section 165.72 of the
33 penal law, trademark counterfeiting in the first degree as defined in
34 section 165.73 of the penal law, forgery in the second degree as defined
35 in section 170.10 of the penal law, forgery in the first degree as
36 defined in section 170.15 of the penal law, criminal possession of a
37 forged instrument in the second degree as defined in section 170.25 of
38 the penal law, criminal possession of a forged instrument in the first
39 degree as defined in section 170.30 of the penal law, criminal
40 possession of forgery devices as defined in section 170.40 of the penal
41 law, falsifying business records in the first degree as defined in
42 section 175.10 of the penal law, tampering with public records in the
43 first degree as defined in section 175.25 of the penal law, offering a
44 false instrument for filing in the first degree as defined in section
45 175.35 of the penal law, issuing a false certificate as defined in
46 section 175.40 of the penal law, criminal diversion of prescription
47 medications and prescriptions in the second degree as defined in section
48 178.20 of the penal law, criminal diversion of prescription medications
49 and prescriptions in the first degree as defined in section 178.25 of
50 the penal law, residential mortgage fraud in the fourth degree as
51 defined in section 187.10 of the penal law, residential mortgage fraud
52 in the third degree as defined in section 187.15 of the penal law, resi-
53 dential mortgage fraud in the second degree as defined in section 187.20
54 of the penal law, residential mortgage fraud in the first degree as
55 defined in section 187.25 of the penal law, escape in the second degree
56 as defined in section 205.10 of the penal law, escape in the first

1 degree as defined in section 205.15 of the penal law, absconding from
2 temporary release in the first degree as defined in section 205.17 of
3 the penal law, promoting prison contraband in the first degree as
4 defined in section 205.25 of the penal law, hindering prosecution in the
5 second degree as defined in section 205.60 of the penal law, hindering
6 prosecution in the first degree as defined in section 205.65 of the
7 penal law, sex trafficking as defined in section 230.34 of the penal
8 law, criminal possession of a weapon in the third degree as defined in
9 subdivisions two, three and five of section 265.02 of the penal law,
10 criminal possession of a weapon in the second degree as defined in
11 section 265.03 of the penal law, criminal possession of a weapon in the
12 first degree as defined in section 265.04 of the penal law, CRIMINAL
13 POSSESSION OF A WEAPON UPON SCHOOL GROUNDS OR A SCHOOL BUS AS DEFINED IN
14 SECTION 265.07 OF THE PENAL LAW, manufacture, transport, disposition and
15 defacement of weapons and dangerous instruments and appliances defined
16 as felonies in subdivisions one, two, and three of section 265.10 of the
17 penal law, sections 265.11, 265.12 and 265.13 of the penal law, or
18 prohibited use of weapons as defined in subdivision two of section
19 265.35 of the penal law, relating to firearms and other dangerous weap-
20 ons, or failure to disclose the origin of a recording in the first
21 degree as defined in section 275.40 of the penal law;
22 S 8. This act shall take effect on the sixtieth day after it shall
23 have become a law.