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

720

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. ROBACH -- 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 expanding the crime of robbery in the first and second degrees to include attempts of such crime with a device appearing to be a bomb or other explosive device

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

Section 1. Subdivision 4 of section 160.15 of the penal law, as amended by chapter 374 of the laws of 1973, is amended and a new subdivision 5 is added to read as follows:

4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, 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 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

5. DISPLAYS OR THREATENS TO USE ANY DEVICE OR OBJECT THAT CONSTITUTES, APPEARS TO CONSTITUTE, OR IS REPRESENTED TO CONSTITUTE, IN WHOLE OR IN PART, A BOMB, DESTRUCTIVE DEVICE, OR AN EXPLOSIVE OR HAZARDOUS SUBSTANCE; EXCEPT THAT IN ANY PROSECUTION UNDER THIS SUBDIVISION, IT IS AN AFFIRMATIVE DEFENSE THAT SUCH DEVICE OR OBJECT WHICH WAS DISPLAYED OR THREATENED, WAS NOT AN OPERATIVE BOMB, DESTRUCTIVE DEVICE, EXPLOSIVE OR HAZARDOUS SUBSTANCE. NOTHING CONTAINED IN THIS SUBDIVISION 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.

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

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S 2. Subdivision 2 of section 160.10 of the penal law is amended by adding a new paragraph (c) to read as follows:

(C) DISPLAYS OR THREATENS TO USE ANY DEVICE OR OBJECT THAT CONSTITUTES, APPEARS TO CONSTITUTE, OR IS REPRESENTED TO CONSTITUTE, IN WHOLE OR IN PART, A BOMB, DESTRUCTIVE DEVICE, OR AN EXPLOSIVE OR HAZARDOUS SUBSTANCE; OR

S 3. This act shall take effect on the first of November next succeeding the date on which is shall have become a law.