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2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. DIAZ -- 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 firearms

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

1 Section 1. The penal law is amended by adding two new sections 265.45
2 and 265.50 to read as follows:
3 S 265.45 AGGRAVATED SALE OF A FIREARM.
4 A PERSON IS GUILTY OF AGGRAVATED SALE OF A FIREARM WHEN SUCH PERSON
5 KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A
6 FIREARM TO A PERSON WHICH HE OR SHE KNOWS HAS BEEN:
7 1. USED IN THE COMMISSION OF A FELONY OFFENSE;
8 2. STOLEN FROM ITS LAWFUL OWNER; OR
9 3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS
10 ARTICLE.
11 AGGRAVATED SALE OF A FIREARM IS A CLASS D FELONY.
12 S 265.50 AGGRAVATED SALE OF A FIREARM TO A MINOR.
13 A PERSON OVER THE AGE OF EIGHTEEN IS GUILTY OF AGGRAVATED SALE OF A
14 FIREARM TO A MINOR WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS,
15 EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHO IS, OR WHO THE
16 DEFENDANT BELIEVES TO BE LESS THAN EIGHTEEN YEARS OF AGE, WHICH HE OR
17 SHE KNOWS HAS BEEN:
18 1. USED IN THE COMMISSION OF A FELONY OFFENSE;
19 2. STOLEN FROM ITS LAWFUL OWNER; OR
20 3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS
21 ARTICLE.
22 AGGRAVATED SALE OF A FIREARM TO A MINOR IS A CLASS C FELONY.
23 S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
24 penal law, paragraph (b) as amended by chapter 148 of the laws of 2011

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

LBD01016-01-3

1 and paragraph (c) as amended by chapter 405 of the laws of 2010, are
2 amended to read as follows:

3 (b) Class C violent felony offenses: an attempt to commit any of the
4 class B felonies set forth in paragraph (a) of this subdivision; aggra-
5 vated criminally negligent homicide as defined in section 125.11, aggra-
6 vated manslaughter in the second degree as defined in section 125.21,
7 aggravated sexual abuse in the second degree as defined in section
8 130.67, assault on a peace officer, police officer, fireman or emergency
9 medical services professional as defined in section 120.08, assault on a
10 judge as defined in section 120.09, gang assault in the second degree as
11 defined in section 120.06, strangulation in the first degree as defined
12 in section 121.13, burglary in the second degree as defined in section
13 140.25, robbery in the second degree as defined in section 160.10, crim-
14 inal possession of a weapon in the second degree as defined in section
15 265.03, criminal use of a firearm in the second degree as defined in
16 section 265.08, criminal sale of a firearm in the second degree as
17 defined in section 265.12, criminal sale of a firearm with the aid of a
18 minor as defined in section 265.14, AGGRAVATED SALE OF A FIREARM TO A
19 MINOR AS DEFINED IN SECTION 265.50, soliciting or providing support for
20 an act of terrorism in the first degree as defined in section 490.15,
21 hindering prosecution of terrorism in the second degree as defined in
22 section 490.30, and criminal possession of a chemical weapon or biolog-
23 ical weapon in the third degree as defined in section 490.37.

24 (c) Class D violent felony offenses: an attempt to commit any of the
25 class C felonies set forth in paragraph (b); reckless assault of a child
26 as defined in section 120.02, assault in the second degree as defined in
27 section 120.05, menacing a police officer or peace officer as defined in
28 section 120.18, stalking in the first degree, as defined in subdivision
29 one of section 120.60, strangulation in the second degree as defined in
30 section 121.12, rape in the second degree as defined in section 130.30,
31 criminal sexual act in the second degree as defined in section 130.45,
32 sexual abuse in the first degree as defined in section 130.65, course of
33 sexual conduct against a child in the second degree as defined in
34 section 130.80, aggravated sexual abuse in the third degree as defined
35 in section 130.66, facilitating a sex offense with a controlled
36 substance as defined in section 130.90, criminal possession of a weapon
37 in the third degree as defined in subdivision five, six, seven or eight
38 of section 265.02, criminal sale of a firearm in the third degree as
39 defined in section 265.11, intimidating a victim or witness in the
40 second degree as defined in section 215.16, soliciting or providing
41 support for an act of terrorism in the second degree as defined in
42 section 490.10, and making a terroristic threat as defined in section
43 490.20, falsely reporting an incident in the first degree as defined in
44 section 240.60, placing a false bomb or hazardous substance in the first
45 degree as defined in section 240.62, placing a false bomb or hazardous
46 substance in a sports stadium or arena, mass transportation facility or
47 enclosed shopping mall as defined in section 240.63, AGGRAVATED SALE OF
48 A FIREARM AS DEFINED IN SECTION 265.45, and aggravated unpermitted use
49 of indoor pyrotechnics in the first degree as defined in section 405.18.

50 S 3. This act shall take effect on the first of November next succeed-
51 ing the date on which it shall have become a law.