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

145

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:

Section 1. The penal law is amended by adding two new sections 265.45 and 265.50 to read as follows:

S 265.45 AGGRAVATED SALE OF A FIREARM.

A PERSON IS GUILTY OF AGGRAVATED SALE OF A FIREARM WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHICH HE OR SHE KNOWS HAS BEEN:

1. USED IN THE COMMISSION OF A FELONY OFFENSE;

2. STOLEN FROM ITS LAWFUL OWNER; OR

3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS ARTICLE.

AGGRAVATED SALE OF A FIREARM IS A CLASS D FELONY.

S 265.50 AGGRAVATED SALE OF A FIREARM TO A MINOR.

A PERSON OVER THE AGE OF EIGHTEEN IS GUILTY OF AGGRAVATED SALE OF A FIREARM TO A MINOR WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHO IS, OR WHO THE DEFENDANT BELIEVES TO BE LESS THAN EIGHTEEN YEARS OF AGE, WHICH HE OR SHE KNOWS HAS BEEN:

1. USED IN THE COMMISSION OF A FELONY OFFENSE;

2. STOLEN FROM ITS LAWFUL OWNER; OR

3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS ARTICLE.

AGGRAVATED SALE OF A FIREARM TO A MINOR IS A CLASS C FELONY.

S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the 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

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

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, AGGRAVATED SALE OF A FIREARM TO A MINOR AS DEFINED IN SECTION 265.50, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

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

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