

3805--A

2013-2014 Regular Sessions

I N S E N A T E

February 19, 2013

Introduced by Sens. ZELDIN, FLANAGAN, GOLDEN, LARKIN, MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to public lewdness; to amend the vehicle and traffic law, in relation to designating public lewdness in the first degree as an offense which results in permanent disqualification as a bus driver; and to amend the correction law, in relation to designating public lewdness in the first degree as a sex offense for purposes of the sex offender registration

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

1 Section 1. Paragraph (c) of subdivision 3 of section 65.00 of the
2 penal law, as amended by chapter 568 of the laws of 2004, is amended to
3 read as follows:
4 (c) For a class B misdemeanor, the period of probation shall be one
5 year, except the period of probation shall be no less than one year and
6 no more than three years for the class B misdemeanor of public lewdness
7 IN THE FOURTH DEGREE as defined in section 245.00 of this chapter;
8 S 2. Section 245.00 of the penal law, as amended by chapter 748 of the
9 laws of 1968, is amended to read as follows:
10 S 245.00 Public lewdness IN THE FOURTH DEGREE.
11 A person is guilty of public lewdness IN THE FOURTH DEGREE when he OR
12 SHE intentionally exposes the private or intimate parts of his OR HER
13 body in a lewd manner or commits any other lewd act (a) in a public
14 place, or (b) in private premises under circumstances in which he OR SHE
15 may readily be observed from either a public place or from other private
16 premises, and with intent that he OR SHE be so observed.
17 Public lewdness IN THE FOURTH DEGREE is a class B misdemeanor.
18 S 3. The penal law is amended by adding a new section 245.03 to read
19 as follows:
20 S 245.03 PUBLIC LEWDNESS IN THE THIRD DEGREE.

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

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1 A PERSON IS GUILTY OF PUBLIC LEWDNESS IN THE THIRD DEGREE WHEN HE OR
2 SHE INTENTIONALLY EXPOSES THE PRIVATE OR INTIMATE PARTS OF HIS OR HER
3 BODY IN A LEWD MANNER OR COMMITS ANY OTHER LEWD ACT (A) IN A PUBLIC
4 PLACE, OR (B) IN A PRIVATE PREMISES UNDER CIRCUMSTANCES IN WHICH HE OR
5 SHE MAY READILY BE OBSERVED FROM EITHER A PUBLIC PLACE OR FROM OTHER
6 PRIVATE PREMISES, AND WITH THE INTENT THAT HE OR SHE BE OBSERVED WHEN
7 THE OFFENSE IS COMMITTED FOR THE PURPOSE, IN WHOLE OR SUBSTANTIAL PART,
8 OF HIS OR HER OWN SEXUAL GRATIFICATION.

9 PUBLIC LEWDNESS IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

10 S 4. The penal law is amended by adding two new sections 245.06 and
11 245.09 to read as follows:

12 S 245.06 PUBLIC LEWDNESS IN THE SECOND DEGREE.

13 A PERSON IS GUILTY OF PUBLIC LEWDNESS IN THE SECOND DEGREE WHEN HE OR
14 SHE COMMITS THE CRIME OF PUBLIC LEWDNESS IN THE THIRD DEGREE, AS DEFINED
15 IN SECTION 245.03 OF THIS ARTICLE, AND HAS PREVIOUSLY BEEN CONVICTED OF
16 SUCH CRIME WITHIN THE PRECEDING TEN YEARS.

17 PUBLIC LEWDNESS IN THE SECOND DEGREE IS A CLASS E FELONY.

18 S 245.09 PUBLIC LEWDNESS IN THE FIRST DEGREE.

19 A PERSON IS GUILTY OF PUBLIC LEWDNESS IN THE FIRST DEGREE WHEN HE OR
20 SHE COMMITS THE CRIME OF PUBLIC LEWDNESS IN THE THIRD DEGREE, AS DEFINED
21 IN SECTION 245.03 OF THIS ARTICLE, AND SUCH CRIME IS COMMITTED AT A TIME
22 OR PLACE WHERE A CHILD UNDER THE AGE OF FOURTEEN IS LIKELY TO BE PRES-
23 ENT. FOR PURPOSES OF THIS SECTION, IT IS NOT NECESSARY THAT SUCH CHILD
24 IS ACTUALLY PRESENT OR WITNESSES ACTS PROHIBITED UNDER THIS SECTION.

25 PUBLIC LEWDNESS IN THE FIRST DEGREE IS A CLASS D FELONY.

26 S 5. Paragraph (b) of subdivision 4 of section 509-cc of the vehicle
27 and traffic law, as amended by chapter 400 of the laws of 2011, is
28 amended to read as follows:

29 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
30 subdivision one and paragraph (b) of subdivision two of this section
31 that result in permanent disqualification shall include a conviction
32 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
33 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
34 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 245.03, 245.06, 245.09,
35 260.00, 265.04 of the penal law or an attempt to commit any of the afor-
36 esaid offenses under section 110.00 of the penal law, or any offenses
37 committed under a former section of the penal law which would constitute
38 violations of the aforesaid sections of the penal law, or any offenses
39 committed outside this state which would constitute violations of the
40 aforesaid sections of the penal law.

41 S 6. Subparagraph (i) of paragraph (a) of subdivision 2 of section
42 168-a of the correction law, as amended by chapter 405 of the laws of
43 2008, is amended to read as follows:

44 (i) a conviction of or a conviction for an attempt to commit any of
45 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,
46 130.45, 130.60, 230.34, 245.09, 250.50, 255.25, 255.26 and 255.27 or
47 article two hundred sixty-three of the penal law, or section 135.05,
48 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses,
49 provided the victim of such kidnapping or related offense is less than
50 seventeen years old and the offender is not the parent of the victim, or
51 section 230.04, where the person patronized is in fact less than seven-
52 teen years of age, 230.05 or 230.06, or subdivision two of section
53 230.30, or section 230.32 or 230.33 of the penal law, or

54 S 7. This act shall take effect on the first of November next succeed-
55 ing the date on which it shall have become a law.