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

2274

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. REILICH, KOLB, FINCH, ALFANO, ERRIGO -- Multi-Sponsored by -- M. of A. BARRA, McDONOUGH -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the crime of aggressive driving

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 a new section 120.65 to read as follows:

S 120.65 AGGRESSIVE DRIVING.

A PERSON IS GUILTY OF AGGRESSIVE DRIVING WHEN HE OR SHE:

1. RECKLESSLY OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY IN A MANNER THAT CREATES A SUBSTANTIAL RISK OF SERIOUS PHYSICAL INJURY TO ANOTHER PERSON; OR

2. OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY WHILE DISPLAYING A DEADLY WEAPON OR A DANGEROUS INSTRUMENT OR WHAT APPEARS TO BE A PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM, IN SUCH MANNER AS TO PLACE ANOTHER PERSON IN REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH; OR

3. OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY IN SUCH MANNER AS TO PLACE ANOTHER PERSON IN REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH.

AGGRESSIVE DRIVING IS A CLASS E FELONY.

S 2. Subdivision 4 of section 70.00 of the penal law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

4. Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate

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

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or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less, PROVIDED, HOWEVER, THAT THE COURT MUST FIX A MINIMUM TERM OF AT LEAST ONE YEAR WHEN THE SENTENCE IS FOR A CONVICTION OF THE CLASS E FELONY OFFENSE OF AGGRESSIVE DRIVING.

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