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

2940

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to criminal possession of a weapon by a minor and criminal use of a weapon by a minor

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 265.18 and 265.19 to read as follows:

S 265.18 CRIMINAL POSSESSION OF A WEAPON BY A MINOR.

1. A PERSON IS GUILTY OF CRIMINAL POSSESSION OF A WEAPON BY A MINOR, WHEN BEING UNDER EIGHTEEN YEARS OF AGE, HE OR SHE POSSESSES ANY FIREARM, RIFLE OR SHOTGUN.

2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO POSSESSES A RIFLE OR SHOTGUN AND IS THE HOLDER OF A HUNTING LICENSE OR PERMIT ISSUED PURSUANT TO ARTICLE ELEVEN OF THE ENVIRONMENTAL CONSERVATION LAW AND USED IN ACCORDANCE WITH SUCH ARTICLE.

CRIMINAL POSSESSION OF A WEAPON BY A MINOR IS A CLASS D FELONY.

S 265.19 CRIMINAL USE OF A WEAPON BY A MINOR.

A PERSON IS GUILTY OF CRIMINAL USE OF A WEAPON BY A MINOR WHEN, BEING UNDER EIGHTEEN YEARS OF AGE, HE OR SHE COMMITS ANY CRIME AND POSSESSES A FIREARM, RIFLE OR SHOTGUN WHILE IN THE COURSE OF COMMITTING SUCH CRIME.

CRIMINAL USE OF A WEAPON BY A MINOR IS A CLASS C FELONY.

S 2. Subdivisions 4 and 5 of section 60.05 of the penal law, as amended by chapter 738 of the laws of 2004, are amended to read as follows:

4. Certain class C felonies. Except as provided in subdivision six, every person convicted of a class C violent felony offense as defined in subdivision one of section 70.02 of this title, must be sentenced to imprisonment in accordance with section 70.02 of this title; and, except as provided in subdivision six of this section, every person convicted of the class C felonies of: attempt to commit any of the class B felo-

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

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nies of bribery in the first degree as defined in section 200.04, bribe receiving in the first degree as defined in section 200.12, conspiracy in the second degree as defined in section 105.15 and criminal mischief in the first degree as defined in section 145.12; criminal usury in the first degree as defined in section 190.42, rewarding official misconduct in the first degree as defined in section 200.22, receiving reward for official misconduct in the first degree as defined in section 200.27, attempt to promote prostitution in the first degree as defined in ARTICLE ONE HUNDRED TEN AND section 230.32, promoting prostitution in the second degree as defined in section 230.30, CRIMINAL USE OF A WEAPON BY A MINOR AS DEFINED IN SECTION 265.19, arson in the third degree as defined in section 150.10 of this chapter, must be sentenced to imprisonment in accordance with section 70.00 of this title.

5. Certain class D felonies. Except as provided in subdivision six of this section, every person convicted of the class D felonies of assault in the second degree as defined in section 120.05, CRIMINAL POSSESSION OF A WEAPON BY A MINOR AS DEFINED IN SECTION 265.18 or attempt to commit a class C felony as defined in section 230.30 of this chapter, must be sentenced in accordance with section 70.00 or 85.00 of this title.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.