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

3303

2009-2010 Regular Sessions

I N A S S E M B L Y

January 26, 2009

Introduced by M. of A. EDDINGTON, GALEF, COLTON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to increasing penalties for certain bomb and gun threats

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

Section 1. Subdivision 1 of section 240.30 of the penal law, as amended by chapter 510 of the laws of 2008, is amended to read as follows:

1. [Either] EXCEPT AS PROVIDED IN SUBDIVISION ONE OF SECTION 240.31 OF THIS ARTICLE, EITHER (a) communicates with a person, anonymously or otherwise, by telephone, by telegraph, or by mail, or by transmitting or delivering any other form of written communication, in a manner likely to cause annoyance or alarm; or

(b) causes a communication to be initiated by mechanical or electronic means or otherwise with a person, anonymously or otherwise, by telephone, by telegraph, or by mail, or by transmitting or delivering any other form of written communication, in a manner likely to cause annoyance or alarm; or

S 2. Section 240.31 of the penal law, as amended by chapter 49 of the laws of 2006, subdivisions 3 and 4 as amended and subdivision 5 as added by chapter 74 of the laws of 2008, is amended to read as follows:

S 240.31 Aggravated harassment in the first degree.

A person is guilty of aggravated harassment in the first degree when: 1. with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

[1.] (A) Damages premises primarily used for religious purposes, or acquired pursuant to section six of the religious [corporation] CORPO-

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

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RATIONS law and maintained for purposes of religious instruction, and the damage to the premises exceeds fifty dollars; or

[2.] (B) Commits the crime of aggravated harassment in the second degree in the manner proscribed by the provisions of subdivision three of section 240.30 of this article and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he or she has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years; or

[3.] (C) Etches, paints, draws upon or otherwise places a swastika, commonly exhibited as the emblem of Nazi Germany, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property;

[4.] (D) Sets on fire a cross in public view; [or]

[5.] (E) Etches, paints, draws upon or otherwise places or displays a noose, commonly exhibited as a symbol of racism and intimidation, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property; OR

2. WITH INTENT TO THREATEN OR ALARM ANOTHER PERSON HE OR SHE COMMUNICATES A BOMB OR GUN THREAT TO AN EDUCATIONAL INSTITUTION BY WAY OF A MECHANICAL OR ELECTRONIC MEANS, EITHER IN PERSON OR THROUGH THE USE OF TELEPHONE, MAIL, E-MAIL OR ANY OTHER FORM OF WRITTEN COMMUNICATION, IN A MANNER LIKELY TO CAUSE ANNOYANCE OR ALARM. AS USED IN THIS SUBDIVISION EDUCATIONAL INSTITUTION SHALL MEAN AND INCLUDE ELEMENTARY SCHOOLS, JUNIOR HIGH SCHOOLS, SECONDARY SCHOOLS OR INSTITUTIONS OF HIGHER EDUCATION.

Aggravated harassment in the first degree is a class E felony.

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