

3510

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

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

AN ACT to amend the penal law and the vehicle and traffic law, in relation to unlawfully installing or possessing a concealed vehicular compartment

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

1 Section 1. The penal law is amended by adding two new sections 270.40
2 and 270.45 to read as follows:
3 S 270.40 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR
4 COMPARTMENT IN THE SECOND DEGREE.
5 1. A PERSON IS GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A
6 CONCEALED VEHICULAR COMPARTMENT IN THE SECOND DEGREE WHEN SUCH PERSON
7 KNOWINGLY:
8 (A) OWNS, OPERATES OR POSSESSES A VEHICLE CONTAINING A CONCEALED
9 VEHICULAR COMPARTMENT; OR
10 (B) DESIGNS, INSTALLS, FABRICATES OR CREATES A CONCEALED VEHICULAR
11 COMPARTMENT IN A VEHICLE.
12 2. AS USED IN THIS SECTION "CONCEALED VEHICULAR COMPARTMENT" MEANS A
13 HIDDEN OR CONCEALED ENCLOSURE OR COMPARTMENT INTEGRATED INTO A VEHICLE
14 THAT IS INTENDED OR DESIGNED TO BE USED TO TRANSPORT, CONCEAL, HIDE OR
15 PREVENT DISCOVERY BY LAW ENFORCEMENT OFFICERS OF PROPERTY POSSESSED IN
16 VIOLATION OF LAW, PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF
17 A CRIME OR OF PERSONS IN VIOLATION OF LAW.
18 3. THERE SHALL BE A REBUTTABLE PRESUMPTION THAT A HIDDEN OR CONCEALED
19 ENCLOSURE OR COMPARTMENT INTEGRATED INTO A VEHICLE IS INTENDED OR
20 DESIGNED TO BE USED TO TRANSPORT, CONCEAL, HIDE OR PREVENT DISCOVERY BY
21 LAW ENFORCEMENT OFFICERS OF PROPERTY POSSESSED IN VIOLATION OF LAW,
22 PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF A CRIME OR OF
23 PERSONS IN VIOLATION OF LAW WHEN THERE ARE FACTORS FROM WHICH SUCH
24 INTENT OR DESIGN MAY REASONABLY BE INFERRED INCLUDING BUT NOT LIMITED TO

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

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1 THE DISCOVERY OF A PERSON, FIREARM, CONTROLLED SUBSTANCE OR OTHER
2 CONTRABAND WITHIN SUCH COMPARTMENT OR THE DISCOVERY OF EVIDENCE OF THE
3 PREVIOUS PLACEMENT OF A PERSON, FIREARM, CONTROLLED SUBSTANCE OR OTHER
4 CONTRABAND WITHIN SUCH COMPARTMENT.

5 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT
6 IN THE SECOND DEGREE IS A CLASS A MISDEMEANOR.

7 S 270.45 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR
8 COMPARTMENT IN THE FIRST DEGREE.

9 A PERSON IS GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED
10 VEHICULAR COMPARTMENT IN THE FIRST DEGREE WHEN SUCH PERSON COMMITS THE
11 CRIME OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR
12 COMPARTMENT IN THE SECOND DEGREE AND:

13 1. SUCH CONCEALED VEHICULAR COMPARTMENT OR THE VEHICLE IN WHICH IT IS
14 INSTALLED IS EQUIPPED WITH AN EXPLOSIVE DEVICE OR OTHERWISE CREATES OR
15 IS DESIGNED TO CREATE A SUBSTANTIAL RISK OF PHYSICAL INJURY TO A PERSON
16 WHO ATTEMPTS UNWELCOME ACCESS OF SUCH COMPARTMENT; OR

17 2. SUCH CONCEALED VEHICULAR COMPARTMENT IS USED IN THE COMMISSION OF A
18 CRIME OR TO CONCEAL EVIDENCE OF A CRIME.

19 UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED VEHICULAR COMPARTMENT
20 IN THE FIRST DEGREE IS A CLASS E FELONY.

21 S 2. Paragraphs (j) and (k) of subdivision 1 of section 398-e of the
22 vehicle and traffic law, as amended by chapter 634 of the laws of 1980,
23 are amended and a new paragraph (l) is added to read as follows:

24 (j) has knowingly issued a false or misleading estimate; [or]

25 (k) has engaged in a course of conduct which unreasonably impedes or
26 delays a consumer's right to a fair recovery pursuant to the provisions
27 of an automobile insurance policy, the insurance law or regulations
28 issued by the superintendent of insurance governing the evaluation and
29 adjustments of claims; OR

30 (L) HAS BEEN GUILTY OF UNLAWFULLY INSTALLING OR POSSESSING A CONCEALED
31 VEHICULAR COMPARTMENT IN VIOLATION OF SECTION 270.40 OF THE PENAL LAW.

32 S 3. The closing paragraph of subdivision 1 of section 398-e of the
33 vehicle and traffic law, as amended by chapter 634 of the laws of 1980,
34 is amended to read as follows:

35 For the purposes of paragraphs (g), (h), (i), (j) [and], (k) AND (L)
36 of this subdivision, it shall be presumed that the actions of any
37 employee of a motor vehicle repair shop shall be attributable to, and
38 deemed to be the actions of, such motor vehicle repair shop.

39 S 4. This act shall take effect on the ninetieth day after it shall
40 have become a law.