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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the penal law, in relation to menacing committed with a deadly weapon, dangerous instrument or firearm

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

1 Section 1. Section 120.13 of the penal law, as amended by chapter 765
2 of the laws of 2005, is amended to read as follows:
3 S 120.13 Menacing in the first degree.
4 1. A person is guilty of menacing in the first degree when [he or she]
5 SUCH PERSON:
6 (A) commits the crime of menacing in the second degree and has been
7 previously convicted of the crime of menacing in the second degree or
8 the crime of menacing a police officer or peace officer within the
9 preceding ten years[.]; OR
10 (B) INTENTIONALLY PLACES OR ATTEMPTS TO PLACE ANOTHER PERSON IN
11 REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR DEATH BY
12 DISPLAYING A DEADLY WEAPON, DANGEROUS INSTRUMENT OR WHAT APPEARS TO BE A
13 PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM.
14 2. A PERSON IS NOT GUILTY OF MENACING IN THE FIRST DEGREE IF HE OR SHE
15 VIOLATES SUBDIVISION ONE OF THIS SECTION UNDER CIRCUMSTANCES WHERE SUCH
16 PERSON BELIEVES THAT SUCH ACTION IS NECESSARY TO PROTECT A PERSON OR
17 PROPERTY FROM HARM.
18 Menacing in the first degree is a class E felony.
19 S 2. Section 120.14 of the penal law, as amended by chapter 222 of the
20 laws of 1994, subdivision 3 as amended by chapter 597 of the laws of
21 1998, is amended to read as follows:
22 S 120.14 Menacing in the second degree.
23 1. A person is guilty of menacing in the second degree when SUCH
24 PERSON:

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

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1 [1. He or she intentionally places or attempts to place another person
2 in reasonable fear of physical injury, serious physical injury or death
3 by displaying a deadly weapon, dangerous instrument or what appears to
4 be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
5 2. He or she] (A) repeatedly follows a person or engages in a course
6 of conduct or repeatedly commits acts over a period of time inten-
7 tionally placing or attempting to place another person in reasonable
8 fear of physical injury, serious physical injury or death; or
9 [3. He or she] (B) commits the crime of menacing in the third degree
10 in violation of that part of a duly served order of protection, or such
11 order which the defendant has actual knowledge of because he or she was
12 present in court when such order was issued, pursuant to article eight
13 of the family court act, section 530.12 of the criminal procedure law,
14 or an order of protection issued by a court of competent jurisdiction in
15 another state, territorial or tribal jurisdiction, which directed the
16 respondent or defendant to stay away from the person or persons on whose
17 behalf the order was issued.
18 2. A PERSON IS NOT GUILTY OF MENACING IN THE SECOND DEGREE IF HE OR
19 SHE VIOLATES SUBDIVISION ONE OF THIS SECTION UNDER CIRCUMSTANCES WHERE
20 SUCH PERSON BELIEVES THAT SUCH ACTION IS NECESSARY TO PROTECT A PERSON
21 OR PROPERTY FROM HARM.
22 Menacing in the second degree is a class A misdemeanor.
23 S 3. This act shall take effect on the first of November next succeed-
24 ing the date on which it shall have become a law.