

3924

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. FLANAGAN, ALESİ, LARKIN, MAZIARZ, MORAHAN, RANZEN-
HOFER, SEWARD, VOLKER, WINNER -- read twice and ordered printed, and
when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing home inva-
sion robbery offenses

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

1 Section 1. The penal law is amended by adding a new article 163 to
2 read as follows:

3 ARTICLE 163

4 HOME INVASION ROBBERY

5 SECTION 163.00 HOME INVASION ROBBERY; DEFINED.

6 163.05 HOME INVASION ROBBERY IN THE SECOND DEGREE.

7 163.10 HOME INVASION ROBBERY IN THE FIRST DEGREE.

8 S 163.00 HOME INVASION ROBBERY; DEFINED.

9 FOR THE PURPOSES OF THIS ARTICLE, "HOME INVASION ROBBERY" MEANS ANY
10 ROBBERY AS DEFINED IN SECTION 160.00 OF THIS TITLE THAT OCCURS WHEN A
11 PERSON ENTERS A DWELLING WITH THE INTENT TO COMMIT A ROBBERY, AND DOES
12 COMMIT A ROBBERY OF THE OCCUPANTS THEREIN.

13 S 163.05 HOME INVASION ROBBERY IN THE SECOND DEGREE.

14 A PERSON IS GUILTY OF HOME INVASION ROBBERY IN THE SECOND DEGREE WHEN
15 HE OR SHE COMMITS A HOME INVASION ROBBERY AND IS AIDED BY ANOTHER PERSON
16 ACTUALLY PRESENT.

17 HOME INVASION ROBBERY IN THE SECOND DEGREE IS A CLASS C FELONY.

18 S 163.10 HOME INVASION ROBBERY IN THE FIRST DEGREE.

19 A PERSON IS GUILTY OF HOME INVASION ROBBERY IN THE FIRST DEGREE WHEN
20 HE OR SHE COMMITS A HOME INVASION ROBBERY AND WHEN, IN THE COURSE OF THE
21 COMMISSION OF SUCH CRIME OR OF IMMEDIATE FLIGHT THEREFROM, HE OR SHE OR
22 ANOTHER PARTICIPANT IN SUCH CRIME:

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

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1 1. CAUSES SERIOUS PHYSICAL INJURY TO ANY PERSON WHO IS NOT A PARTIC-
2 IPANT IN SUCH CRIME; OR
3 2. IS ARMED WITH A DEADLY WEAPON; OR
4 3. USES OR THREATENS THE IMMEDIATE USE OF A DANGEROUS INSTRUMENT; OR
5 4. DISPLAYS WHAT APPEARS TO BE A PISTOL, REVOLVER, RIFLE, SHOTGUN,
6 MACHINE GUN OR OTHER FIREARM; EXCEPT THAT IN ANY PROSECUTION UNDER THIS
7 SUBDIVISION, IT IS AN AFFIRMATIVE DEFENSE THAT SUCH PISTOL, REVOLVER,
8 RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM WAS NOT A LOADED WEAPON
9 FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS
10 PHYSICAL INJURY, COULD BE DISCHARGED. NOTHING CONTAINED IN THIS SUBDIVI-
11 SION SHALL CONSTITUTE A DEFENSE TO A PROSECUTION FOR, OR PRECLUDE A
12 CONVICTION OF, HOME INVASION ROBBERY IN THE SECOND DEGREE OR ANY OTHER
13 OFFENSE.
14 HOME INVASION ROBBERY IN THE FIRST DEGREE IS A CLASS B FELONY.
15 S 2. This act shall take effect on the first of November next succeed-
16 ing the date on which it shall have become a law.