

3510

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 27, 2009

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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.