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

6040

2009-2010 Regular Sessions

I N A S S E M B L Y

February 24, 2009

Introduced by M. of A. KOON -- Multi-Sponsored by -- M. of A. LAVINE, REILLY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to increasing the penalties for repeat convictions of assault or harassment in the second degree

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

Section 1. Paragraph (b) of subdivision 10 of section 120.05 of the penal law, as added by chapter 181 of the laws of 2000, is amended to read as follows:

(b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this [chapter.] PART; OR

S 2. Subdivisions 11 and 12 of section 120.05 of the penal law, subdivision 11 as amended by chapter 45 of the laws of 2008, subdivision 12 as added by chapter 68 of the laws of 2008, are amended and a new subdivision 13 is added to read as follows:

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator or station agent employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a traffic enforcement officer or traffic enforcement agent, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator or station agent, city marshal, traffic enforcement officer or traffic enforcement agent while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, or such city marshal, traffic enforcement officer or traffic enforcement agent is performing an assigned duty[.]; OR

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

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12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person[.]; OR

13. HE OR SHE COMMITS THE CRIME OF ASSAULT IN THE THIRD DEGREE, AS DEFINED IN SECTION 120.00 OF THIS ARTICLE, AND HAS BEEN CONVICTED OF SUCH CRIME WITHIN THE PRECEDING TEN YEARS.

S 3. Subdivision 4 of section 120.10 of the penal law, as amended by chapter 791 of the laws of 1967, is amended and a new subdivision 5 is added to read as follows:

4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants[.]; OR

5. HE COMMITS THE CRIME OF ASSAULT IN THE SECOND DEGREE, AS DEFINED IN SECTION 120.05 OF THIS ARTICLE, AND HAS BEEN CONVICTED OF SUCH CRIME WITHIN THE PRECEDING TEN YEARS.

S 4. Section 240.25 of the penal law, as amended by chapter 109 of the laws of 1994, is amended to read as follows:

S 240.25 Harassment in the first degree.

A person is guilty of harassment in the first degree when [he]:

1. HE or she intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury; OR

2. HE OR SHE COMMITS THE OFFENSE OF HARASSMENT IN THE SECOND DEGREE, AS DEFINED IN SECTION 240.26 OF THIS ARTICLE, AND HAS BEEN CONVICTED OF SUCH OFFENSE TWICE IN THE PRECEDING FIVE YEARS.

This section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended.

Harassment in the first degree is a class B misdemeanor.

S 5. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.