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

751

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. McDONOUGH, WALKER, RAIA, GIGLIO, FINCH -- Multi-Sponsored by -- M. of A. BOYLAND, BURLING -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the crime of evading arrest or detention

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

Section 1. The penal law is amended by adding five new sections 205.35, 205.36, 205.37, 205.38 and 205.39 to read as follows:

S 205.35 EVADING ARREST OR DETENTION IN THE FIFTH DEGREE.

A PERSON IS GUILTY OF EVADING ARREST OR DETENTION IN THE FIFTH DEGREE WHEN HE OR SHE INTENTIONALLY FLEES FROM A PERSON HE OR SHE KNOWS OR REASONABLY SHOULD KNOW IS A POLICE OFFICER OR PEACE OFFICER ATTEMPTING TO ARREST OR DETAIN HIM OR HER.

EVADING ARREST OR DETENTION IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 205.36 EVADING ARREST OR DETENTION IN THE FOURTH DEGREE.

A PERSON IS GUILTY OF EVADING ARREST OR DETENTION IN THE FOURTH DEGREE WHEN:

1. HE OR SHE INTENTIONALLY FLEES FROM A PERSON HE OR SHE KNOWS OR REASONABLY SHOULD KNOW IS A POLICE OFFICER OR PEACE OFFICER ATTEMPTING TO ARREST OR DETAIN HIM OR HER; AND

2. (A) HE OR SHE USES A MOTOR VEHICLE WHILE HE OR SHE IS FLEEING; OR

(B) THE CRIME FOR WHICH HE OR SHE IS BEING ARRESTED OR DETAINED FOR IS A FELONY; OR

(C) HE OR SHE IS IN POSSESSION OF A DEADLY WEAPON.

EVADING ARREST OR DETENTION IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 205.37 EVADING ARREST OR DETENTION IN THE THIRD DEGREE.

A PERSON IS GUILTY OF EVADING ARREST OR DETENTION IN THE THIRD DEGREE WHEN:

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

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1. HE OR SHE INTENTIONALLY FLEES FROM A PERSON HE OR SHE KNOWS OR REASONABLY SHOULD KNOW IS A POLICE OFFICER OR PEACE OFFICER ATTEMPTING TO ARREST OR DETAIN HIM OR HER; AND

2. A THIRD PERSON OR THE POLICE OFFICER OR PEACE OFFICER SUFFERS PHYSICAL INJURY AS A DIRECT RESULT OF THE ATTEMPT TO EVADE ARREST OR DETENTION.

EVADING ARREST OR DETENTION IN THE THIRD DEGREE IS A CLASS D FELONY.

S 205.38 EVADING ARREST OR DETENTION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF EVADING ARREST OR DETENTION IN THE SECOND DEGREE WHEN:

1. HE OR SHE INTENTIONALLY FLEES FROM A PERSON HE OR SHE KNOWS OR REASONABLY SHOULD KNOW IS A POLICE OFFICER OR PEACE OFFICER ATTEMPTING TO ARREST OR DETAIN HIM OR HER; AND

2. A THIRD PERSON OR THE POLICE OFFICER OR PEACE OFFICER SUFFERS SERIOUS PHYSICAL INJURY AS A DIRECT RESULT OF THE ATTEMPT TO EVADE ARREST OR DETENTION.

EVADING ARREST OR DETENTION IN THE SECOND DEGREE IS A CLASS C FELONY.

S 205.39 EVADING ARREST OR DETENTION IN THE FIRST DEGREE.

A PERSON IS GUILTY OF EVADING ARREST OR DETENTION IN THE FIRST DEGREE WHEN:

1. HE OR SHE INTENTIONALLY FLEES FROM A PERSON HE OR SHE KNOWS OR REASONABLY SHOULD KNOW IS A POLICE OFFICER OR PEACE OFFICER ATTEMPTING TO ARREST OR DETAIN HIM OR HER; AND

2. A THIRD PERSON OR THE POLICE OFFICER OR PEACE OFFICER DIES AS A DIRECT RESULT OF THE ATTEMPT TO EVADE ARREST OR DETENTION.

EVADING ARREST OR DETENTION IN THE FIRST DEGREE IS A CLASS B FELONY.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.