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

124

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. SAMPSON -- 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 criminal mischief in certain cases

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

Section 1. Sections 145.00, 145.05, and 145.10 of the penal law, section 145.00 as amended by chapter 69 of the laws of 2008, section 145.05 as amended by chapter 276 of the laws of 2003 and section 145.10 as amended by chapter 961 of the laws of 1971, are amended to read as follows:

S 145.00 Criminal mischief in the fourth degree.

A person is guilty of criminal mischief in the fourth degree [when, having]:

1. HAVING no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

[1.] (A) Intentionally damages property of another person; or

[2.] (B) Intentionally participates in the destruction of an abandoned building as defined in section one thousand nine hundred seventy-one-a of the real property actions and proceedings law; or

[3.] (C) Recklessly damages property of another person in an amount exceeding two hundred fifty dollars; or

[4.] (D) With intent to prevent a person from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person: [(a)] (I) is attempting to seek or is engaged in the process of seeking emergency assistance from police, law enforcement, fire or emergency medical services personnel; or [(b)] (II) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent

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

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physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision[.]; OR

2. HAVING NO RIGHT TO DO SO AND WITH THE INTENT TO HARASS, ANNOY, OR ALARM ANOTHER PERSON, HE OR SHE INTENTIONALLY DAMAGES MARITAL PROPERTY, AS DEFINED IN PARAGRAPH C OF SUBDIVISION ONE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW, IN WHICH THAT OTHER PERSON AND THE ACTOR SHARE A POSSESSORY OR PROPRIETARY INTEREST.

Criminal mischief in the fourth degree is a class A misdemeanor.

S 145.05 Criminal mischief in the third degree.

A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

1. damages the motor vehicle of another person, by breaking into such vehicle when it is locked with the intent of stealing property, and within the previous ten year period, has been convicted three or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of criminal mischief in the fourth degree as defined in section 145.00, criminal mischief in the third degree as defined in this section, criminal mischief in the second degree as defined in section 145.10, or criminal mischief in the first degree as defined in section 145.12 of this article; [or]

2. damages property of another person in an amount exceeding two hundred fifty dollars[.]; OR

3. WITH THE INTENT TO HARASS, ANNOY, OR ALARM ANOTHER PERSON INTENTIONALLY DAMAGES MARITAL PROPERTY, AS DEFINED IN PARAGRAPH C OF SUBDIVISION ONE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW, IN AN AMOUNT EXCEEDING TWO HUNDRED FIFTY DOLLARS, IN WHICH THAT OTHER PERSON AND THE ACTOR SHARE A POSSESSORY OR PROPRIETARY INTEREST.

Criminal mischief in the third degree is a class E felony.

S 145.10 Criminal mischief in the second degree.

A person is guilty of criminal mischief in the second degree when [with]:

1. WITH intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he OR SHE has such right, he OR SHE damages property of another person in an amount exceeding one thousand five hundred dollars[.]; OR

2. HAVING NO RIGHT TO DO SO AND WITH THE INTENT TO HARASS, ANNOY, OR ALARM ANOTHER PERSON, HE OR SHE INTENTIONALLY DAMAGES MARITAL PROPERTY, AS DEFINED IN PARAGRAPH C OF SUBDIVISION ONE OF PART B OF SECTION TWO HUNDRED THIRTY-SIX OF THE DOMESTIC RELATIONS LAW, IN AN AMOUNT EXCEEDING ONE THOUSAND FIVE HUNDRED DOLLARS, IN WHICH THAT OTHER PERSON AND THE ACTOR SHARE A POSSESSORY OR PROPRIETARY INTEREST.

Criminal mischief in the second degree is a class D 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.