

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.