

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

S. 6198--A

A. 9160--A

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

September 30, 2009

IN SENATE -- Introduced by Sens. DIAZ, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. CRESPO -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to the crime of aggravated murder involving certain business owners and their employees

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

1 Section 1. Paragraph (b) of subdivision 2 and the opening paragraph of
2 subdivision 3 of section 125.26 of the penal law, paragraph (b) of
3 subdivision 2 as added and the opening paragraph of subdivision 3 as
4 amended by chapter 482 of the laws of 2009, are amended, subdivision 3
5 is renumbered subdivision 4 and a new subdivision 3 is added to read as
6 follows:
7 (b) The defendant was more than eighteen years old at the time of the
8 commission of the crime[.]; OR
9 3. WITH INTENT TO CAUSE THE DEATH OF THE OWNER OF A GROCERY STORE,
10 BODEGA, TAXI CAB OR LIVERY CAB, OR HIS OR HER EMPLOYEES, INCLUDING DRIV-
11 ERS, WHILE SUCH PERSON IS ACTING IN THE NORMAL COURSE OF HIS OR HER
12 EMPLOYMENT, HE OR SHE CAUSES THE DEATH OF SUCH PERSON.
13 In any prosecution under subdivision one [or], two OR THREE of this
14 section, it is an affirmative defense that:
15 S 2. Subdivision 5 of section 70.00 of the penal law, as amended by
16 chapter 482 of the laws of 2009, is amended to read as follows:

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

LBD14752-02-0

1 5. Life imprisonment without parole. Notwithstanding any other
2 provision of law, a defendant sentenced to life imprisonment without
3 parole shall not be or become eligible for parole or conditional
4 release. For purposes of commitment and custody, other than parole and
5 conditional release, such sentence shall be deemed to be an indetermi-
6 nate sentence. A defendant may be sentenced to life imprisonment with-
7 out parole upon conviction for the crime of murder in the first degree
8 as defined in section 125.27 of this chapter and in accordance with the
9 procedures provided by law for imposing a sentence for such crime. A
10 defendant must be sentenced to life imprisonment without parole upon
11 conviction for the crime of terrorism as defined in section 490.25 of
12 this chapter, where the specified offense the defendant committed is a
13 class A-I felony; the crime of criminal possession of a chemical weapon
14 or biological weapon in the first degree as defined in section 490.45 of
15 this chapter; or the crime of criminal use of a chemical weapon or
16 biological weapon in the first degree as defined in section 490.55 of
17 this chapter; provided, however, that nothing in this subdivision shall
18 preclude or prevent a sentence of death when the defendant is also
19 convicted of the crime of murder in the first degree as defined in
20 section 125.27 of this chapter. A defendant must be sentenced to life
21 imprisonment without parole upon conviction for the crime of murder in
22 the second degree as defined in subdivision five of section 125.25 of
23 this chapter or for the crime of aggravated murder as defined in subdi-
24 vision one of section 125.26 of this chapter. A defendant may be
25 sentenced to life imprisonment without parole upon conviction for the
26 crime of aggravated murder as defined in subdivision two OR THREE of
27 section 125.26 of this chapter.

28 S 3. Section 60.06 of the penal law, as amended by chapter 482 of the
29 laws of 2009, is amended to read as follows:

30 S 60.06 Authorized disposition; murder in the first degree offenders;
31 aggravated murder offenders; certain murder in the second
32 degree offenders; certain terrorism offenders; criminal
33 possession of a chemical weapon or biological weapon offen-
34 ders; criminal use of a chemical weapon or biological weapon
35 offenders.

36 When a defendant is convicted of murder in the first degree as defined
37 in section 125.27 of this chapter, the court shall, in accordance with
38 the provisions of section 400.27 of the criminal procedure law, sentence
39 the defendant to death, to life imprisonment without parole in accord-
40 ance with subdivision five of section 70.00 of this title, or to a term
41 of imprisonment for a class A-I felony other than a sentence of life
42 imprisonment without parole, in accordance with subdivisions one through
43 three of section 70.00 of this title. When a person is convicted of
44 murder in the second degree as defined in subdivision five of section
45 125.25 of this chapter or of the crime of aggravated murder as defined
46 in subdivision one of section 125.26 of this chapter, the court shall
47 sentence the defendant to life imprisonment without parole in accordance
48 with subdivision five of section 70.00 of this title. When a defendant
49 is convicted of the crime of terrorism as defined in section 490.25 of
50 this chapter, and the specified offense the defendant committed is a
51 class A-I felony offense, or when a defendant is convicted of the crime
52 of criminal possession of a chemical weapon or biological weapon in the
53 first degree as defined in section 490.45 of this chapter, or when a
54 defendant is convicted of the crime of criminal use of a chemical weapon
55 or biological weapon in the first degree as defined in section 490.55 of
56 this chapter, the court shall sentence the defendant to life imprison-

1 ment without parole in accordance with subdivision five of section 70.00
2 of this title; provided, however, that nothing in this section shall
3 preclude or prevent a sentence of death when the defendant is also
4 convicted of murder in the first degree as defined in section 125.27 of
5 this chapter. When a defendant is convicted of aggravated murder as
6 defined in subdivision two OR THREE of section 125.26 of this chapter,
7 the court shall sentence the defendant to life imprisonment without
8 parole or to a term of imprisonment for a class A-I felony other than a
9 sentence of life imprisonment without parole, in accordance with subdi-
10 visions one through three of section 70.00 of this title.
11 S 4. This act shall take effect on the first of November next succeed-
12 ing the date on which it shall have become a law.