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I N   S E N A T E

January 22, 2010

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Introduced by Sen. SKELOS -- 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 the theft of a motor vehicle while a child is present therein

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

1     Section 1. Section 155.35 of the penal law, as amended by chapter 515  
2     of the laws of 1986, is amended to read as follows:  
3     S 155.35 Grand larceny in the third degree.  
4     A person is guilty of grand larceny in the third degree when he OR SHE  
5     steals property and when [the]:  
6     1. THE value of the property exceeds three thousand dollars[.]; OR  
7     2. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE  
8     HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE  
9     COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS  
10    PRESENT IN OR ON SUCH MOTOR VEHICLE.  
11    Grand larceny in the third degree is a class D felony.  
12    S 2. Section 155.42 of the penal law, as added by chapter 515 of the  
13    laws of 1986, is amended to read as follows:  
14    S 155.42 Grand larceny in the first degree.  
15    A person is guilty of grand larceny in the first degree when he OR SHE  
16    steals property and when [the]:  
17    1. THE value of the property exceeds one million dollars[.]; OR  
18    2. THE PROPERTY, REGARDLESS OF ITS VALUE, CONSISTS OF A MOTOR VEHICLE,  
19    AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC  
20    LAW, IS OBTAINED BY EXTORTION COMMITTED BY INSTILLING IN THE VICTIM A  
21    FEAR THAT THE ACTOR OR ANOTHER PERSON WILL CAUSE PHYSICAL INJURY TO SOME  
22    PERSON, IN THE FUTURE, AND A CHILD UNDER THE AGE OF SIXTEEN YEARS IS  
23    PRESENT IN OR ON SUCH MOTOR VEHICLE DURING THE COMMISSION OF SUCH  
24    OFFENSE.  
25    Grand larceny in the first degree is a class B felony.  
26    S 3. Section 160.15 of the penal law, as amended by chapter 374 of the  
27    laws of 1973, is amended to read as follows:  
28    S 160.15 Robbery in the first degree.

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

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1 A person is guilty of robbery in the first degree when he OR SHE  
2 forcibly steals property and when[, in]:  
3 1. IN the course of the commission of the crime or of immediate flight  
4 therefrom, he, SHE or another participant in the crime:  
5 [1.] (A) Causes serious physical injury to any person who is not a  
6 participant in the crime; or  
7 [2.] (B) Is armed with a deadly weapon; or  
8 [3.] (C) Uses or threatens the immediate use of a dangerous instru-  
9 ment; or  
10 [4.] (D) Displays what appears to be a pistol, revolver, rifle, shot-  
11 gun, machine gun or other firearm; except that in any prosecution under  
12 this [subdivision] PARAGRAPH, it is an affirmative defense that such  
13 pistol, revolver, rifle, shotgun, machine gun or other firearm was not a  
14 loaded weapon from which a shot, readily capable of producing death or  
15 other serious physical injury, could be discharged. Nothing contained in  
16 this [subdivision] PARAGRAPH shall constitute a defense to a prosecution  
17 for, or preclude a conviction of, robbery in the second degree, robbery  
18 in the third degree or any other crime[.]; OR  
19 2. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE  
20 HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE  
21 COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS  
22 PRESENT IN OR ON SUCH MOTOR VEHICLE.  
23 Robbery in the first degree is a class B felony.  
24 S 4. This act shall take effect on the first of November next succeed-  
25 ing the date on which it shall have become a law.