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

10251

I N A S S E M B L Y

May 16, 2012

Introduced by M. of A. RYAN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to creating the crime of viewing an obscene sexual performance by a child; and to amend the vehicle and traffic law, in relation to disqualifying any person convicted of the crime of viewing a sexual performance by a child from driving a school bus

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 a new section 263.07 to read as follows:

S 263.07 VIEWING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD.

A PERSON IS GUILTY OF VIEWING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD WHEN, HE OR SHE KNOWINGLY ACCESSES WITH INTENT TO VIEW ANY PERFORMANCE WHICH INCLUDES SEXUAL CONDUCT BY A CHILD LESS THAN SIXTEEN YEARS OF AGE.

VIEWING AN OBSCENE SEXUAL PERFORMANCE BY A CHILD IS A CLASS E FELONY.

S 2. Subdivision 1 of section 263.00 of the penal law, as amended by chapter 1 of the laws of 2000, is amended to read as follows:

1. "Sexual performance" means any performance or part thereof which, for purposes of section 263.07 OR 263.16 of this article, includes sexual conduct by a child less than sixteen years of age or, for purposes of section 263.05 or 263.15 of this article, includes sexual conduct by a child less than seventeen years of age.

S 3. Subdivision 1 of section 263.20 of the penal law, as amended by chapter 1 of the laws of 2000, is amended to read as follows:

1. Under this article, it shall be an affirmative defense that the defendant in good faith reasonably believed the person appearing in the performance was, for purposes of section 263.07, 263.11 or 263.16 of this article, sixteen years of age or over or, for purposes of section 263.05, 263.10 or 263.15 of this article, seventeen years of age or over.

S 4. Paragraph (a) of subdivision 4 of section 509-cc of the vehicle and traffic law, as amended by chapter 400 of the laws of 2011, is amended to read as follows:

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

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(a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50, 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.07, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law.

S 5. This act shall take effect on the sixtieth day after it shall have become a law.