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

7869

2011-2012 Regular Sessions

I N A S S E M B L Y

May 19, 2011

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

AN ACT to amend the penal law, in relation to criminal trespass on railroad property

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

Section 1. Subdivision (g) of section 140.10 of the penal law, as added by chapter 338 of the laws of 1997, is amended to read as follows:

(g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad, INCLUDING UPON ABANDONED RAILROAD PROPERTY, which has been designated and conspicuously posted as a no-trespass railroad zone, [pursuant to section eighty-three-b of the railroad law, by the city or county in which such property is located] OR UPON OR ALONG THE TRACK OR TRACKS OF AN OPERATING RAILROAD OR WITHIN THE FENCES OR GUARDS THEREOF, EXCEPT ACROSS OR ALONG STREETS OR HIGHWAYS OR AT FARM OR FOREST CROSSINGS WHERE NECESSARY TO CROSS SUCH TRACKS OR PROPERTY, INCLUDING ANY PERSONS RIDING, LEADING OR DRIVING ANY HORSE OR OTHER ANIMAL OR PERSONS OPERATING A MOTOR VEHICLE, SNOWMOBILE, OR OTHER RECREATIONAL VEHICLE, INCLUDING ALL-TERRAIN VEHICLES AND MOTORCYCLES.

S 2. Section 145.00 of the penal law is amended by adding a new subdivision 5 to read as follows:

5. KNOWINGLY OR RECKLESSLY ENGAGES IN ANY CONDUCT THAT RESULTS IN DAMAGE TO, OR SUBSTANTIAL DEFACEMENT OF, RAILROAD PROPERTY. SUCH CONDUCT SHALL INCLUDE, BUT IS NOT LIMITED TO: THROWING OBJECTS THAT STRIKE RAILROAD FACILITIES, STRUCTURES OR ROLLING STOCK; PLACING OBJECTS ON OR IMMEDIATELY ADJACENT TO RAILROAD TRACKS; OR DEFACING, DISARMING OR IN ANY WAY INTERFERING WITH SIGNALS OR SWITCHES.

S 3. Section 145.15 of the penal law, as amended by chapter 585 of the laws of 2006, is amended to read as follows:

S 145.15 Criminal tampering in the second degree.

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

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A person is guilty of criminal tampering in the second degree when, having no right to do so nor any reasonable ground to believe that he OR SHE has such right, he or she tampers or makes connection with property of a gas, electric, sewer, steam or water-works corporation, telephone or telegraph corporation, common carrier, nuclear powered electric generating facility, [or] public utility operated by a municipality or district, OR RAILROAD PROPERTY OR RIGHTS OF WAY; except that in any prosecution under this section, it is an affirmative defense that the defendant did not engage in such conduct for a larcenous or otherwise unlawful or wrongful purpose.

Criminal tampering in the second degree is a class A misdemeanor.

S 4. Section 145.20 of the penal law, as amended by chapter 585 of the laws of 2006, is amended to read as follows:

S 145.20 Criminal tampering in the first degree.

A person is guilty of criminal tampering in the first degree when, with intent to cause a substantial interruption or impairment of a service rendered to the public, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she damages or tampers with property of a gas, electric, sewer, steam or water-works corporation, telephone or telegraph corporation, common carrier, nuclear powered electric generating facility, [or] public utility operated by a municipality or district, OR RAILROAD PROPERTY OR RIGHTS OF WAY; and thereby causes such substantial interruption or impairment of service.

Criminal tampering in the first degree is a class D felony.

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