

1543

2011-2012 Regular Sessions

I N S E N A T E

January 10, 2011

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 464
2 of the laws of 2010, 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:
6 1. [when] the value of the property exceeds three thousand dollars[,];
7 or
8 2. the property is an automated teller machine or the contents of an
9 automated teller machine[.]; OR
10 3. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE
11 HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE
12 COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS
13 PRESENT IN OR ON SUCH MOTOR VEHICLE.
14 Grand larceny in the third degree is a class D felony.
15 S 2. Section 155.42 of the penal law, as added by chapter 515 of the
16 laws of 1986, is amended to read as follows:
17 S 155.42 Grand larceny in the first degree.
18 A person is guilty of grand larceny in the first degree when he OR SHE
19 steals property and when [the]:
20 1. THE value of the property exceeds one million dollars[.]; OR
21 2. THE PROPERTY, REGARDLESS OF ITS VALUE, CONSISTS OF A MOTOR VEHICLE,
22 AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC
23 LAW, IS OBTAINED BY EXTORTION COMMITTED BY INSTILLING IN THE VICTIM A
24 FEAR THAT THE ACTOR OR ANOTHER PERSON WILL CAUSE PHYSICAL INJURY TO SOME
25 PERSON, IN THE FUTURE, AND A CHILD UNDER THE AGE OF SIXTEEN YEARS IS

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

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1 PRESENT IN OR ON SUCH MOTOR VEHICLE DURING THE COMMISSION OF SUCH
2 OFFENSE.

3 Grand larceny in the first degree is a class B felony.

4 S 3. Section 160.15 of the penal law, as amended by chapter 374 of the
5 laws of 1973, is amended to read as follows:

6 S 160.15 Robbery in the first degree.

7 A person is guilty of robbery in the first degree when he OR SHE
8 forcibly steals property and when[, in]:

9 1. IN the course of the commission of the crime or of immediate flight
10 therefrom, he, SHE or another participant in the crime:

11 [1.] (A) Causes serious physical injury to any person who is not a
12 participant in the crime; or

13 [2.] (B) Is armed with a deadly weapon; or

14 [3.] (C) Uses or threatens the immediate use of a dangerous instru-
15 ment; or

16 [4.] (D) Displays what appears to be a pistol, revolver, rifle, shot-
17 gun, machine gun or other firearm; except that in any prosecution under
18 this [subdivision] PARAGRAPH, it is an affirmative defense that such
19 pistol, revolver, rifle, shotgun, machine gun or other firearm was not a
20 loaded weapon from which a shot, readily capable of producing death or
21 other serious physical injury, could be discharged. Nothing contained in
22 this [subdivision] PARAGRAPH shall constitute a defense to a prosecution
23 for, or preclude a conviction of, robbery in the second degree, robbery
24 in the third degree or any other crime[.]; OR

25 2. THE PROPERTY CONSISTS OF A MOTOR VEHICLE, AS DEFINED IN SECTION ONE
26 HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, AND, DURING THE
27 COMMISSION OF SUCH OFFENSE, A CHILD UNDER THE AGE OF SIXTEEN YEARS IS
28 PRESENT IN OR ON SUCH MOTOR VEHICLE.

29 Robbery in the first degree is a class B felony.

30 S 4. This act shall take effect on the first of November next succeed-
31 ing the date on which it shall have become a law.