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

3451--B

Cal. No. 138

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

Introduced by Sens. FUSCHILLO, DILAN, AVELLA, BONACIC, DeFRANCISCO, GRIFFO, HANNON, JOHNSON, KRUGER, LARKIN, LIBOUS, McDONALD, RANZENHOFER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 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].

S 2. Section 83-a of the railroad law, as added by chapter 246 of the laws of 1977, is amended to read as follows:

S 83-a. Operation of MOTOR VEHICLES, snowmobiles, RECREATIONAL VEHICLES, AND RIDING OF ANIMALS on railroad property. Except in the case of a railroad employee, CONTRACTOR OF THE RAILROAD CORPORATION OR PUBLIC OFFICIAL acting in the performance of his [duty] OR HER DUTIES, no person shall KNOWINGLY operate a MOTOR VEHICLE, snowmobile, OR OTHER RECREATIONAL VEHICLE, INCLUDING ALL TERRAIN VEHICLES AND MOTORCYCLES, OR RIDE, LEAD OR DRIVE ANY HORSE OR OTHER ANIMAL upon abandoned railroad property which is posted to prohibit the operation of [snowmobiles] ANY

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

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SUCH VEHICLES OR ANIMALS thereupon, 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 [said] SUCH tracks or property. [Any person violating the provisions of this section shall be guilty of a violation punishable by a fine of one hundred dollars for each separate offense.] A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL CONSTITUTE A VIOLATION PUNISHABLE BY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN TWO HUNDRED FIFTY DOLLARS. CONVICTION FOR A SECOND OR SUBSEQUENT VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN TWO HUNDRED FIFTY NOR MORE THAN FIVE HUNDRED DOLLARS.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.