

3205

2011-2012 Regular Sessions

I N S E N A T E

February 11, 2011

Introduced by Sen. FLANAGAN -- 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 establishing home invasion robbery offenses

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

1 Section 1. The penal law is amended by adding a new article 163 to
2 read as follows:

3 ARTICLE 163

4 HOME INVASION ROBBERY

5 SECTION 163.00 HOME INVASION ROBBERY; DEFINED.

6 163.05 HOME INVASION ROBBERY IN THE SECOND DEGREE.

7 163.10 HOME INVASION ROBBERY IN THE FIRST DEGREE.

8 S 163.00 HOME INVASION ROBBERY; DEFINED.

9 FOR THE PURPOSES OF THIS ARTICLE, "HOME INVASION ROBBERY" MEANS ANY
10 ROBBERY AS DEFINED IN SECTION 160.00 OF THIS TITLE THAT OCCURS WHEN A
11 PERSON ENTERS A DWELLING WITH THE INTENT TO COMMIT A ROBBERY, AND DOES
12 COMMIT A ROBBERY OF THE OCCUPANTS THEREIN.

13 S 163.05 HOME INVASION ROBBERY IN THE SECOND DEGREE.

14 A PERSON IS GUILTY OF HOME INVASION ROBBERY IN THE SECOND DEGREE WHEN
15 HE OR SHE COMMITS A HOME INVASION ROBBERY AND IS AIDED BY ANOTHER PERSON
16 ACTUALLY PRESENT.

17 HOME INVASION ROBBERY IN THE SECOND DEGREE IS A CLASS C FELONY.

18 S 163.10 HOME INVASION ROBBERY IN THE FIRST DEGREE.

19 A PERSON IS GUILTY OF HOME INVASION ROBBERY IN THE FIRST DEGREE WHEN
20 HE OR SHE COMMITS A HOME INVASION ROBBERY AND WHEN, IN THE COURSE OF THE
21 COMMISSION OF SUCH CRIME OR OF IMMEDIATE FLIGHT THEREFROM, HE OR SHE OR
22 ANOTHER PARTICIPANT IN SUCH CRIME:

23 1. CAUSES SERIOUS PHYSICAL INJURY TO ANY PERSON WHO IS NOT A PARTIC-
24 IPANT IN SUCH CRIME; OR

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

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1 2. IS ARMED WITH A DEADLY WEAPON; OR
2 3. USES OR THREATENS THE IMMEDIATE USE OF A DANGEROUS INSTRUMENT; OR
3 4. DISPLAYS WHAT APPEARS TO BE A PISTOL, REVOLVER, RIFLE, SHOTGUN,
4 MACHINE GUN OR OTHER FIREARM; EXCEPT THAT IN ANY PROSECUTION UNDER THIS
5 SUBDIVISION, IT IS AN AFFIRMATIVE DEFENSE THAT SUCH PISTOL, REVOLVER,
6 RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM WAS NOT A LOADED WEAPON
7 FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS
8 PHYSICAL INJURY, COULD BE DISCHARGED. NOTHING CONTAINED IN THIS SUBDIVI-
9 SION SHALL CONSTITUTE A DEFENSE TO A PROSECUTION FOR, OR PRECLUDE A
10 CONVICTION OF, HOME INVASION ROBBERY IN THE SECOND DEGREE OR ANY OTHER
11 OFFENSE.
12 HOME INVASION ROBBERY IN THE FIRST DEGREE IS A CLASS B FELONY.
13 S 2. This act shall take effect on the first of November next succeed-
14 ing the date on which it shall have become a law.