

S T A T E   O F   N E W   Y O R K

---

558--B

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

---

Introduced by Sens. DIAZ, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Crime Victims, Crime and Correction in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to firearms

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 two new sections 265.45  
2     and 265.50 to read as follows:  
3     S 265.45 AGGRAVATED SALE OF A FIREARM.  
4     A PERSON IS GUILTY OF AGGRAVATED SALE OF A FIREARM WHEN SUCH PERSON  
5     KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A  
6     FIREARM TO A PERSON WHICH HE OR SHE KNOWS HAS BEEN:  
7         1. USED IN THE COMMISSION OF A FELONY OFFENSE;  
8         2. STOLEN FROM ITS LAWFUL OWNER; OR  
9         3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS  
10     ARTICLE.  
11     AGGRAVATED SALE OF A FIREARM IS A CLASS D FELONY.  
12     S 265.50 AGGRAVATED SALE OF A FIREARM TO A MINOR.  
13     A PERSON OVER THE AGE OF EIGHTEEN IS GUILTY OF AGGRAVATED SALE OF A  
14     FIREARM TO A MINOR WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS,  
15     EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHO IS, OR WHO THE  
16     DEFENDANT BELIEVES TO BE LESS THAN EIGHTEEN YEARS OF AGE, WHICH HE OR  
17     SHE KNOWS HAS BEEN:  
18         1. USED IN THE COMMISSION OF A FELONY OFFENSE;  
19         2. STOLEN FROM ITS LAWFUL OWNER; OR

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

LBD03334-06-2

1 3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS  
2 ARTICLE.

3 AGGRAVATED SALE OF A FIREARM TO A MINOR IS A CLASS C FELONY.

4 S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the  
5 penal law, paragraph (b) as amended by chapter 148 of the laws of 2011  
6 and paragraph (c) as amended by chapter 405 of the laws of 2010, are  
7 amended to read as follows:

8 (b) Class C violent felony offenses: an attempt to commit any of the  
9 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
10 vated criminally negligent homicide as defined in section 125.11, aggra-  
11 vated manslaughter in the second degree as defined in section 125.21,  
12 aggravated sexual abuse in the second degree as defined in section  
13 130.67, assault on a peace officer, police officer, fireman or emergency  
14 medical services professional as defined in section 120.08, assault on a  
15 judge as defined in section 120.09, gang assault in the second degree as  
16 defined in section 120.06, strangulation in the first degree as defined  
17 in section 121.13, burglary in the second degree as defined in section  
18 140.25, robbery in the second degree as defined in section 160.10, crim-  
19 inal possession of a weapon in the second degree as defined in section  
20 265.03, criminal use of a firearm in the second degree as defined in  
21 section 265.08, criminal sale of a firearm in the second degree as  
22 defined in section 265.12, criminal sale of a firearm with the aid of a  
23 minor as defined in section 265.14, AGGRAVATED SALE OF A FIREARM TO A  
24 MINOR AS DEFINED IN SECTION 265.50, soliciting or providing support for  
25 an act of terrorism in the first degree as defined in section 490.15,  
26 hindering prosecution of terrorism in the second degree as defined in  
27 section 490.30, and criminal possession of a chemical weapon or biolog-  
28 ical weapon in the third degree as defined in section 490.37.

29 (c) Class D violent felony offenses: an attempt to commit any of the  
30 class C felonies set forth in paragraph (b); reckless assault of a child  
31 as defined in section 120.02, assault in the second degree as defined in  
32 section 120.05, menacing a police officer or peace officer as defined in  
33 section 120.18, stalking in the first degree, as defined in subdivision  
34 one of section 120.60, strangulation in the second degree as defined in  
35 section 121.12, rape in the second degree as defined in section 130.30,  
36 criminal sexual act in the second degree as defined in section 130.45,  
37 sexual abuse in the first degree as defined in section 130.65, course of  
38 sexual conduct against a child in the second degree as defined in  
39 section 130.80, aggravated sexual abuse in the third degree as defined  
40 in section 130.66, facilitating a sex offense with a controlled  
41 substance as defined in section 130.90, criminal possession of a weapon  
42 in the third degree as defined in subdivision five, six, seven or eight  
43 of section 265.02, criminal sale of a firearm in the third degree as  
44 defined in section 265.11, intimidating a victim or witness in the  
45 second degree as defined in section 215.16, soliciting or providing  
46 support for an act of terrorism in the second degree as defined in  
47 section 490.10, and making a terroristic threat as defined in section  
48 490.20, falsely reporting an incident in the first degree as defined in  
49 section 240.60, placing a false bomb or hazardous substance in the first  
50 degree as defined in section 240.62, placing a false bomb or hazardous  
51 substance in a sports stadium or arena, mass transportation facility or  
52 enclosed shopping mall as defined in section 240.63, AGGRAVATED SALE OF  
53 A FIREARM AS DEFINED IN SECTION 265.45, and aggravated unpermitted use  
54 of indoor pyrotechnics in the first degree as defined in section 405.18.

55 S 3. This act shall take effect on the first of November next succeed-  
56 ing the date on which it shall have become a law.