

4576

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 6, 2013

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Introduced by M. of A. LAVINE -- read once and referred 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.