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

145--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. DIAZ, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- 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:

Section 1. The penal law is amended by adding two new sections 265.50 and 265.55 to read as follows:

S 265.50 AGGRAVATED SALE OF A FIREARM.

A PERSON IS GUILTY OF AGGRAVATED SALE OF A FIREARM WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHICH HE OR SHE KNOWS HAS BEEN:

1. USED IN THE COMMISSION OF A FELONY OFFENSE;

2. STOLEN FROM ITS LAWFUL OWNER; OR

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

AGGRAVATED SALE OF A FIREARM IS A CLASS D FELONY.

S 265.55 AGGRAVATED SALE OF A FIREARM TO A MINOR.

A PERSON OVER THE AGE OF EIGHTEEN IS GUILTY OF AGGRAVATED SALE OF A FIREARM TO A MINOR WHEN SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS, EXCHANGES, GIVES OR DISPOSES OF A FIREARM TO A PERSON WHO IS, OR WHO THE DEFENDANT BELIEVES TO BE LESS THAN EIGHTEEN YEARS OF AGE, WHICH HE OR SHE KNOWS HAS BEEN:

1. USED IN THE COMMISSION OF A FELONY OFFENSE;

2. STOLEN FROM ITS LAWFUL OWNER; OR

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

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

S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 1 of the laws of 2013, are amended to read as follows:

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

LBD01016-02-3

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, AGGRAVATED SALE OF A FIREARM TO A MINOR AS DEFINED IN SECTION 265.55, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.

(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, criminal sexual act in the second degree as defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, AGGRAVATED SALE OF A FIREARM AS DESCRIBED IN SECTION 265.50, and aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law, provided, however, that if chapter 1 of the laws of 2013 shall not have taken effect on or before such date then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2013 takes effect.