

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:

1 Section 1. The penal law is amended by adding two new sections 265.50
2 and 265.55 to read as follows:
3 S 265.50 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 265.55 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
20 3. DEFACED AS DEFINED BY SUBDIVISION SEVEN OF SECTION 265.00 OF THIS
21 ARTICLE.
22 AGGRAVATED SALE OF A FIREARM TO A MINOR IS A CLASS C FELONY.
23 S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the
24 penal law, as amended by chapter 1 of the laws of 2013, are amended to
25 read as follows:

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

LBD01016-02-3

1 (b) Class C violent felony offenses: an attempt to commit any of the
2 class B felonies set forth in paragraph (a) of this subdivision; aggra-
3 vated criminally negligent homicide as defined in section 125.11, aggra-
4 vated manslaughter in the second degree as defined in section 125.21,
5 aggravated sexual abuse in the second degree as defined in section
6 130.67, assault on a peace officer, police officer, fireman or emergency
7 medical services professional as defined in section 120.08, assault on a
8 judge as defined in section 120.09, gang assault in the second degree as
9 defined in section 120.06, strangulation in the first degree as defined
10 in section 121.13, burglary in the second degree as defined in section
11 140.25, robbery in the second degree as defined in section 160.10, crim-
12 inal possession of a weapon in the second degree as defined in section
13 265.03, criminal use of a firearm in the second degree as defined in
14 section 265.08, criminal sale of a firearm in the second degree as
15 defined in section 265.12, criminal sale of a firearm with the aid of a
16 minor as defined in section 265.14, aggravated criminal possession of a
17 weapon as defined in section 265.19, AGGRAVATED SALE OF A FIREARM TO A
18 MINOR AS DEFINED IN SECTION 265.55, soliciting or providing support for
19 an act of terrorism in the first degree as defined in section 490.15,
20 hindering prosecution of terrorism in the second degree as defined in
21 section 490.30, and criminal possession of a chemical weapon or biolog-
22 ical weapon in the third degree as defined in section 490.37.

23 (c) Class D violent felony offenses: an attempt to commit any of the
24 class C felonies set forth in paragraph (b); reckless assault of a child
25 as defined in section 120.02, assault in the second degree as defined in
26 section 120.05, menacing a police officer or peace officer as defined in
27 section 120.18, stalking in the first degree, as defined in subdivision
28 one of section 120.60, strangulation in the second degree as defined in
29 section 121.12, rape in the second degree as defined in section 130.30,
30 criminal sexual act in the second degree as defined in section 130.45,
31 sexual abuse in the first degree as defined in section 130.65, course of
32 sexual conduct against a child in the second degree as defined in
33 section 130.80, aggravated sexual abuse in the third degree as defined
34 in section 130.66, facilitating a sex offense with a controlled
35 substance as defined in section 130.90, criminal possession of a weapon
36 in the third degree as defined in subdivision five, six, seven, eight,
37 nine or ten of section 265.02, criminal sale of a firearm in the third
38 degree as defined in section 265.11, intimidating a victim or witness in
39 the second degree as defined in section 215.16, soliciting or providing
40 support for an act of terrorism in the second degree as defined in
41 section 490.10, and making a terroristic threat as defined in section
42 490.20, falsely reporting an incident in the first degree as defined in
43 section 240.60, placing a false bomb or hazardous substance in the first
44 degree as defined in section 240.62, placing a false bomb or hazardous
45 substance in a sports stadium or arena, mass transportation facility or
46 enclosed shopping mall as defined in section 240.63, AGGRAVATED SALE OF
47 A FIREARM AS DESCRIBED IN SECTION 265.50, and aggravated unpermitted use
48 of indoor pyrotechnics in the first degree as defined in section 405.18.

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