

4342

2013-2014 Regular Sessions

I N S E N A T E

March 21, 2013

Introduced by Sen. GALLIVAN -- (at request of the Department of Corrections and Community Supervision) -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to making ineligible for merit, presumptive release, and limited credit time, offenders convicted of certain homicide, hate, terrorism and major drug trafficking crimes

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

1 Section 1. Subparagraph (ii) of paragraph (d) of subdivision 1 of
2 section 803 to the correction law, as added by chapter 738 of the laws
3 of 2004, is amended to read as follows:
4 (ii) Such merit time allowance shall not be available to any person
5 serving an indeterminate sentence authorized for an A-I felony offense,
6 other than an A-I felony offense defined in article two hundred twenty
7 of the penal law, or any sentence imposed for a violent felony offense
8 as defined in section 70.02 of the penal law, [manslaughter in the
9 second degree, vehicular manslaughter in the second degree, vehicular
10 manslaughter in the first degree, criminally negligent homicide,] AN
11 OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OF THE PENAL LAW, an
12 offense defined in article one hundred thirty of the penal law, AN
13 incest OFFENSE DEFINED IN ARTICLE TWO HUNDRED FIFTY-FIVE OF THE PENAL
14 LAW, [or] an offense defined in article two hundred sixty-three of the
15 penal law, AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED EIGHTY-FIVE OF THE
16 PENAL LAW, AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE
17 PENAL LAW, or aggravated harassment of an employee by an inmate AS
18 DEFINED IN SECTION 240.32 OF THE PENAL LAW. NOTWITHSTANDING THE FOREGO-
19 ING, SUCH MERIT TIME ALLOWANCE SHALL NOT BE AVAILABLE TO ANY PERSON
20 SERVING A SENTENCE IMPOSED FOR OPERATING AS A MAJOR TRAFFICKER AS
21 DEFINED IN SECTION 220.77 OF THE PENAL LAW.

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

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1 S 2. Paragraph (a) of subdivision 1 of section 803-b of the correction
2 law, as added by section 4 of part L of chapter 56 of the laws of 2009,
3 is amended to read as follows:

4 (a) "eligible offender" means a person under the custody of the
5 department or confined in a facility in the department of mental
6 hygiene, other than a person who is subject to a sentence imposed for
7 murder in the first degree as defined in section 125.27 of the penal
8 law, OPERATING AS A MAJOR TRAFFICKER AS DEFINED IN SECTION 220.77 OF THE
9 PENAL LAW, AGGRAVATED HARASSMENT OF AN EMPLOYEE BY AN INMATE AS DEFINED
10 IN SECTION 240.32 OF THE PENAL LAW, an offense defined in article one
11 hundred thirty of [such] THE PENAL law, AN INCEST OFFENSE DEFINED IN
12 ARTICLE TWO HUNDRED FIFTY-FIVE OF THE PENAL LAW, AN OFFENSE DEFINED IN
13 ARTICLE FOUR HUNDRED EIGHTY-FIVE OF THE PENAL LAW, AN OFFENSE DEFINED IN
14 ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW, or an attempt or a
15 conspiracy to commit any such offense, who is otherwise subject to:

16 (i) an indeterminate sentence imposed for [any] A class A-I felony
17 offense other than criminal possession of a controlled substance in the
18 first degree as defined in section 220.21 of the penal law or criminal
19 sale of a controlled substance in the first degree as defined in section
20 220.43 of such law or an attempt or a conspiracy to commit such
21 controlled substance offense; or

22 (ii) an indeterminate or determinate sentence imposed for an offense
23 listed in subdivision one of section 70.02 of the penal law; or

24 (iii) an indeterminate or determinate sentence imposed for an offense
25 defined in article one hundred twenty-five of the penal law.

26 S 3. Paragraph (i) of subdivision 1 of section 806 of the correction
27 law, as added by section 5 of part E of chapter 62 of the laws of 2003,
28 is amended to read as follows:

29 (i) the inmate has not been convicted previously of, nor is presently
30 serving a sentence imposed for a class A-I felony, a violent felony
31 offense as defined in section 70.02 of the penal law, [manslaughter in
32 the second degree, vehicular manslaughter in the second degree, vehicu-
33 lar manslaughter in the first degree, criminally negligent homicide,] AN
34 OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OF THE PENAL LAW, an
35 offense defined in article one hundred thirty of the penal law, AGGRA-
36 VATED HARASSMENT OF AN EMPLOYEE BY AN INMATE AS DEFINED IN SECTION
37 240.32 OF THE PENAL LAW, AN incest OFFENSE DEFINED IN ARTICLE TWO
38 HUNDRED FIFTY-FIVE OF THE PENAL LAW, [or] an offense defined in article
39 two hundred sixty-three of the penal law, AN OFFENSE DEFINED IN ARTICLE
40 FOUR-HUNDRED EIGHTY-FIVE OF THE PENAL LAW, OR AN OFFENSE DEFINED IN
41 ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW,

42 S 4. This act shall take effect on the thirtieth day after it shall
43 have become a law; provided, however, that the amendments to subpara-
44 graph (ii) of paragraph (d) of subdivision 1 of section 803 of the
45 correction law made by section one of this act shall not affect the
46 expiration of such section and shall be deemed to expire therewith; and
47 provided, further, that the amendments to paragraph (i) of subdivision 1
48 of section 806 of the correction law made by section three of this act
49 shall not affect the repeal of such section and shall be deemed repealed
50 therewith.