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

4719

2013-2014 Regular Sessions

I N A S S E M B L Y

February 8, 2013

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the commission of certain weapons offenses on school grounds

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

Section 1. Section 265.00 of the penal law is amended by adding a new subdivision 25 to read as follows:

25. "SCHOOL GROUNDS" MEANS (A) ANY AREA IN, ON OR WITHIN ANY BUILDING, STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC OR PRIVATE ELEMENTARY, PAROCHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH SCHOOL, OR (B) ANY AREA ACCESSIBLE TO THE PUBLIC LOCATED WITHIN ONE THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL OR ANY PARKED AUTOMOBILE OR OTHER PARKED VEHICLE LOCATED WITHIN ONE THOUSAND FEET OF THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL. FOR THE PURPOSES OF THIS SECTION AN "AREA ACCESSIBLE TO THE PUBLIC" SHALL MEAN SIDEWALKS, STREETS, PARKING LOTS, PARKS, PLAYGROUNDS, STORES AND RESTAURANTS.

S 2. Subdivisions 9 and 10 of section 265.02 of the penal law, as added by chapter 1 of the laws of 2013, are amended and a new subdivision 11 is added to read as follows:

(9) Such person possesses an unloaded firearm and also commits a drug trafficking felony as defined in subdivision twenty-one of section 10.00 of this chapter as part of the same criminal transaction; [or]

(10) Such person possesses an unloaded firearm and also commits any violent felony offense as defined in subdivision one of section 70.02 of this chapter as part of the same criminal transaction[.]; OR

(11) SUCH PERSON COMMITS THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS DEFINED IN SECTION 265.01 OF THIS ARTICLE AND SUCH CRIME TAKES PLACE UPON SCHOOL GROUNDS.

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

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S 3. Section 265.03 of the penal law, as amended by chapter 742 of the laws of 2006, subdivisions 1 and 3 as amended by chapter 745 of the laws of 2006, is amended to read as follows:

S 265.03 Criminal possession of a weapon in the second degree.

A person is guilty of criminal possession of a weapon in the second degree when:

(1) with intent to use the same unlawfully against another, such person:

(a) possesses a machine-gun; or

(b) possesses a loaded firearm; or

(c) possesses a disguised gun; or

(D) COMMITS THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION ONE, TWO, THREE, FIVE, SIX, SEVEN, OR EIGHT OF SECTION 265.02 OF THIS ARTICLE AND SUCH CRIME TAKES PLACE ON SCHOOL GROUNDS; OR

(2) such person possesses five or more firearms; or

(3) such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision one or seven of section 265.02 of this article, constitute a violation of this subdivision if such possession takes place in such person's home or place of business.

Criminal possession of a weapon in the second degree is a class C felony.

S 4. Section 265.04 of the penal law, as amended by chapter 764 of the laws of 2005, is amended to read as follows:

S 265.04 Criminal possession of a weapon in the first degree.

A person is guilty of criminal possession of a weapon in the first degree when such person:

(1) possesses any explosive substance with intent to use the same unlawfully against the person or property of another; or

(2) possesses ten or more firearms[.]; OR

(3) COMMITS THE CRIME OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE AS DEFINED IN SUBDIVISION ONE OF SECTION 265.03 OF THIS ARTICLE AND SUCH CRIME TAKES PLACE ON SCHOOL GROUNDS.

Criminal possession of a weapon in the first degree is a class B felony.

S 5. Section 265.12 of the penal law, as amended by chapter 764 of the laws of 2005, is amended to read as follows:

S 265.12 Criminal sale of a firearm in the second degree.

A person is guilty of criminal sale of a firearm in the second degree when such person:

(1) unlawfully sells, exchanges, gives or disposes of to another five or more firearms; or

(2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of five or more firearms in a period of not more than one year[.]; OR

(3) COMMITS THE CRIME OF CRIMINAL SALE OF A FIREARM IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION ONE OR TWO OF SECTION 265.11 OF THIS ARTICLE AND SUCH CRIME TAKES PLACE ON SCHOOL GROUNDS.

Criminal sale of a firearm in the second degree is a class C felony.

S 6. 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 section 41-b of chapter 1 of the laws of 2013 is not in effect on such date, then the amendments to subdivisions 9 and 10 of section 265.02 of the penal law, made by section two of this act, shall take effect on the same date and in the same manner as section 41-b of chapter 1 of the laws of 2013, takes effect.