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

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I N A S S E M B L Y

January 9, 2014

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

AN ACT to amend the penal law, in relation to vehicular gang activity

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 a new section 70.12 to read as follows:

S 70.12 SENTENCE OF IMPRISONMENT FOR VEHICULAR GANG ACTIVITY.

1. DEFINITIONS. THE TERM "VEHICULAR OFFENSE" SHALL MEAN ANY MISDEMEANOR OR FELONY COMMITTED WHILE OPERATING A MOTOR VEHICLE. THE TERM "VEHICULAR GANG ACTIVITY" SHALL MEAN THE COMMISSION OF ANY VEHICULAR OFFENSE WHERE A PERSON IS AIDED BY TWO OR MORE OTHER PERSONS ACTUALLY PRESENT.

2. AUTHORIZED SENTENCE. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS CONVICTED OF A VEHICULAR GANG ACTIVITY WHICH IS A CLASS C, D, OR E FELONY OR A MISDEMEANOR, THE CRIME SHALL BE DEEMED TO BE ONE CATEGORY HIGHER THAN THE CRIME THE PERSON COMMITTED, OR ATTEMPTED OR CONSPIRED TO COMMIT.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A PERSON IS CONVICTED OF VEHICULAR GANG ACTIVITY WHICH IS A CLASS B FELONY:

(I) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE MUST BE AT LEAST SIX YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.00 OF THIS ARTICLE;

(II) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST EIGHT YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.02 OF THIS ARTICLE;

(III) THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST TWELVE YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.04 OF THIS ARTICLE;

(IV) THE MAXIMUM TERM OF THE INDETERMINATE SENTENCE OR THE TERM OF THE DETERMINATE SENTENCE MUST BE AT LEAST TEN YEARS IF THE DEFENDANT IS SENTENCED PURSUANT TO SECTION 70.06 OF THIS ARTICLE.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

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