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

5339

2015-2016 Regular Sessions

I N A S S E M B L Y

February 18, 2015

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

AN ACT to amend the penal law, in relation to cemetery desecration; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 145.23 of the penal law, as amended by chapter 353 of the laws of 2007, is amended to read as follows:

S [145.23] 145.22 Cemetery desecration in the [first] SECOND degree.

A person is guilty of cemetery desecration in the [first] SECOND degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he OR SHE has such right, he OR SHE:

(a) damages any real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains [in an amount exceeding two hundred fifty dollars]; or

(b) with intent to steal personal property, he OR SHE steals personal property[, the value of which exceeds two hundred fifty dollars,] which is located at a cemetery plot, grave, burial place or other place of interment of human remains and which property is owned by the person or organization which maintains or owns such place or the estate, next-of-kin or representatives of the deceased person interred there[; or

(c) commits the crime of cemetery desecration in the second degree as defined in section 145.22 of this article and has been previously convicted of the crime of cemetery desecration in the second degree within the preceding five years].

Cemetery desecration in the [first] SECOND degree is a class E felony.

S 2. The penal law is amended by adding a new section 145.23 to read as follows:

S 145.23 CEMETERY DESECRATION IN THE FIRST DEGREE.

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

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A PERSON IS GUILTY OF CEMETERY DESECRATION IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF CEMETERY DESECRATION IN THE SECOND DEGREE AS DEFINED IN SECTION 145.22 OF THIS ARTICLE AND HAS BEEN PREVIOUSLY CONVICTED OF THE CRIME OF CEMETERY DESECRATION IN THE SECOND DEGREE WITHIN THE PRECEDING FIVE YEARS.

CEMETERY DESECRATION IN THE FIRST DEGREE IS A CLASS D FELONY.

S 3. Section 145.22 of the penal law is REPEALED.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.