

2708

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 265.00 of the penal law is amended by adding a new
2 subdivision 26 to read as follows:
3 26. "SCHOOL GROUNDS" MEANS (A) ANY AREA IN, ON OR WITHIN ANY BUILDING,
4 STRUCTURE, ATHLETIC PLAYING FIELD, PLAYGROUND OR LAND CONTAINED WITHIN
5 THE REAL PROPERTY BOUNDARY LINE OF A PUBLIC OR PRIVATE ELEMENTARY, PARO-
6 CHIAL, INTERMEDIATE, JUNIOR HIGH, VOCATIONAL, OR HIGH SCHOOL, OR (B) ANY
7 AREA ACCESSIBLE TO THE PUBLIC LOCATED WITHIN ONE THOUSAND FEET OF THE
8 REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL OR ANY PARKED
9 AUTOMOBILE OR OTHER PARKED VEHICLE LOCATED WITHIN ONE THOUSAND FEET OF
10 THE REAL PROPERTY BOUNDARY LINE COMPRISING ANY SUCH SCHOOL. FOR THE
11 PURPOSES OF THIS SECTION AN "AREA ACCESSIBLE TO THE PUBLIC" SHALL MEAN
12 SIDEWALKS, STREETS, PARKING LOTS, PARKS, PLAYGROUNDS, STORES AND RESTAU-
13 RANTS.
14 S 2. Subdivisions 9 and 10 of section 265.02 of the penal law, as
15 added by chapter 1 of the laws of 2013, are amended and a new subdivi-
16 sion 11 is added to read as follows:
17 (9) Such person possesses an unloaded firearm and also commits a drug
18 trafficking felony as defined in subdivision twenty-one of section 10.00
19 of this chapter as part of the same criminal transaction; [or]
20 (10) Such person possesses an unloaded firearm and also commits any
21 violent felony offense as defined in subdivision one of section 70.02 of
22 this chapter as part of the same criminal transaction[.]; OR
23 (11) SUCH PERSON COMMITS THE CRIME OF CRIMINAL POSSESSION OF A WEAPON
24 IN THE FOURTH DEGREE AS DEFINED IN SECTION 265.01 OF THIS ARTICLE AND
25 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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1 S 3. Section 265.03 of the penal law, as amended by chapter 742 of the
2 laws of 2006, subdivisions 1 and 3 as amended by chapter 745 of the laws
3 of 2006, is amended to read as follows:

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

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

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

9 (a) possesses a machine-gun; or

10 (b) possesses a loaded firearm; or

11 (c) possesses a disguised gun; or

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

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

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

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

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

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

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

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

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

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

34 Criminal possession of a weapon in the first degree is a class B felo-
35 ny.

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

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

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

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

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

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

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

50 S 6. This act shall take effect on the first of November next succeed-
51 ing the date on which it shall have become a law.