

# STATE OF NEW YORK

2169

2017-2018 Regular Sessions

## IN SENATE

January 12, 2017

Introduced by Sens. SERINO, AVELLA, MARCHIONE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to public lewdness; to amend the vehicle and traffic law, in relation to designating public lewdness in the first degree as an offense which results in permanent disqualification as a bus driver; and to amend the correction law, in relation to designating public lewdness in the first degree as a sex offense for purposes of the sex offender registration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (c) of subdivision 3 of section 65.00 of the penal law, as amended by chapter 568 of the laws of 2004, is amended to read as follows:

(c) For a class B misdemeanor, the period of probation shall be one year, except the period of probation shall be no less than one year and no more than three years for the class B misdemeanor of public lewdness in the fourth degree as defined in section 245.00 of this chapter;

§ 2. Section 245.00 of the penal law, as amended by chapter 748 of the laws of 1968 and the opening paragraph as amended by chapter 373 of the laws of 2015, is amended to read as follows:

§ 245.00 Public lewdness in the fourth degree.

A person is guilty of public lewdness in the fourth degree when he or she intentionally exposes the private or intimate parts of his or her body in a lewd manner or commits any other lewd act<sup>+</sup> (a) in a public place, or (b) ~~(i)~~ in private premises under circumstances in which he or she may readily be observed from either a public place or from other private premises, and with intent that he or she be so observed~~[, or (ii) while trespassing, as defined in section 140.05 of this part, in a dwelling as defined in subdivision three of section 140.00 of this part, under circumstances in which he or she is observed by a lawful occupant]~~.

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

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1 Public lewdness in the fourth degree is a class B misdemeanor.

2 § 3. The penal law is amended by adding a new section 245.04 to read  
3 as follows:

4 § 245.04 Public lewdness in the third degree.

5 A person is guilty of public lewdness in the third degree when he or  
6 she intentionally exposes the private or intimate parts of his or her  
7 body in a lewd manner or commits any other lewd act (a) in a public  
8 place, or (b) in a private premises under circumstances in which he or  
9 she may readily be observed from either a public place or from other  
10 private premises, and with the intent that he or she be observed when  
11 the offense is committed for the purpose, in whole or substantial part,  
12 of his or her own sexual gratification.

13 Public lewdness in the third degree is a class A misdemeanor.

14 § 4. The penal law is amended by adding two new sections 245.06 and  
15 245.09 to read as follows:

16 § 245.06 Public lewdness in the second degree.

17 A person is guilty of public lewdness in the second degree when he or  
18 she commits the crime of public lewdness in the third degree, as defined  
19 in section 245.04 of this article, and has previously been convicted of  
20 such crime within the preceding ten years.

21 Public lewdness in the second degree is a class E felony.

22 § 245.09 Public lewdness in the first degree.

23 A person is guilty of public lewdness in the first degree when he or  
24 she commits the crime of public lewdness in the third degree, as defined  
25 in section 245.04 of this article, and such crime is committed at a time  
26 or place where a child under the age of fourteen is present.

27 Public lewdness in the first degree is a class D felony.

28 § 5. Paragraph (b) of subdivision 4 of section 509-cc of the vehicle  
29 and traffic law, as amended by chapter 400 of the laws of 2011, is  
30 amended to read as follows:

31 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of  
32 subdivision one and paragraph (b) of subdivision two of this section  
33 that result in permanent disqualification shall include a conviction  
34 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,  
35 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,  
36 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 245.04, 245.06, 245.09,  
37 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid  
38 offenses under section 110.00 of the penal law, or any offenses  
39 committed under a former section of the penal law which would constitute  
40 violations of the aforesaid sections of the penal law, or any offenses  
41 committed outside this state which would constitute violations of the  
42 aforesaid sections of the penal law.

43 § 6. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
44 168-a of the correction law, as amended by chapter 368 of the laws of  
45 2015, is amended to read as follows:

46 (i) a conviction of or a conviction for an attempt to commit any of  
47 the provisions of sections 120.70, 130.20, 130.25, 130.30, 130.40,  
48 130.45, 130.60, 230.34, 245.09, 250.50, 255.25, 255.26 and 255.27 or  
49 article two hundred sixty-three of the penal law, or section 135.05,  
50 135.10, 135.20 or 135.25 of such law relating to kidnapping offenses,  
51 provided the victim of such kidnapping or related offense is less than  
52 seventeen years old and the offender is not the parent of the victim, or  
53 section 230.04, where the person patronized is in fact less than seven-  
54 teen years of age, 230.05[~~7~~] or 230.06[~~7, 230.11, 230.12, 230.13,~~] or  
55 subdivision two of section 230.30, or section 230.32[~~7~~] or 230.33[~~7, or~~

1 ~~230.34~~] of the penal law[~~, or section 230.25 of the penal law where the~~  
2 ~~person prostituted is in fact less than seventeen years old~~], or  
3 § 7. This act shall take effect on the first of November next succeed-  
4 ing the date on which it shall have become a law.