STATE OF NEW YORK

4613

2017-2018 Regular Sessions

IN SENATE

February 22, 2017

Introduced by Sen. HELMING -- 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 scheme to defraud in the first degree and scheme to defraud in the second degree

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

Section 1. Section 190.65 of the penal law, as amended by chapter 291 of the laws of 2008, is amended to read as follows:

§ 190.65 Scheme to defraud in the first degree.

1. A person is guilty of a scheme to defraud in the first degree when he or she: (a) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons; or (b) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property with a value in excess of one thousand dollars from one or more such persons; or (c) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person, more than one of whom is a vulnerable elderly person [~~as defined in subdivision three of section 260.30 of this chapter~~] or to obtain property from more than one person, more than one of whom is a vulnerable elderly person [~~as defined in subdivision three of section 260.30 of this chapter~~], by false or fraudulent pretenses, representations or promises, and so obtains property from one or more such persons.

2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim, provided that in any prosecution under

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

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paragraph (c) of subdivision one of this section, it shall be necessary to prove the identity of at least one such vulnerable elderly person [~~as defined in subdivision three of section 260.30 of this chapter~~].

Scheme to defraud in the first degree is a class [~~E~~] D felony.

§ 2. Section 190.60 of the penal law, as amended by chapter 491 of the laws of 1992, subdivision 1 as amended by chapter 357 of the laws of 1996, is amended to read as follows:

§ 190.60 Scheme to defraud in the second degree.

1. A person is guilty of a scheme to defraud in the second degree when he engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons.

2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim.

Scheme to defraud in the second degree is a class [~~A misdemeanor~~] E felony.

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