

# STATE OF NEW YORK

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3229--A

Cal. No. 583

2019-2020 Regular Sessions

## IN SENATE

February 4, 2019

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Introduced by Sens. SAVINO, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to sexual abuse in the first degree where a person is incapable of consent while a passenger on public transportation; in relation to public lewdness while a passenger on public transportation; in relation to establishing enhanced penalties for offenses committed while in or upon a building, facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority; and to amend the criminal procedure law, in relation to the suspension or revocation of the use of a facility, property, vehicle or train owned, leased or operated by the metropolitan transportation authority

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

1 Section 1. Section 130.65 of the penal law is amended by adding a new  
2 subdivision 2-a to read as follows:

3 2-a. Intentionally, and with the sole purpose of sexual gratification,  
4 and without the consent of the other person while a passenger on public  
5 transportation; or

6 § 2. Subdivision 2 of section 245.03 of the penal law, as added by  
7 chapter 186 of the laws of 2014, is amended and a new subdivision 3 is  
8 added to read as follows:

9 2. he or she commits the crime of public lewdness, as defined in  
10 section 245.00 of this article, and within the preceding year has been  
11 convicted of an offense defined in such section 245.00 or this  
12 section[-]; or

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

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1 3. he or she commits the crime of public lewdness, as defined in  
2 section 245.00 of this article, while a passenger on public transporta-  
3 tion.

4 § 3. The penal law is amended by adding a new section 70.11 to read as  
5 follows:

6 § 70.11 Sentences of imprisonment for offenses committed while in or  
7 upon a building, facility, property, vehicle or train owned,  
8 leased or operated by the metropolitan transportation authori-  
9 ty; aggravating factors.

10 Matters occurring while in or upon a building, facility, property,  
11 vehicle or train owned, leased or operated by the metropolitan transpor-  
12 tation authority, shall result in the following enhancement of such  
13 sentence:

14 1. For offenses committed under section 120.00 of this chapter, the  
15 sentence shall reflect a class E felony;

16 2. For offenses committed under section 120.01 of this chapter, the  
17 sentence shall reflect a class D felony;

18 3. For offenses committed under section 120.02 of this chapter, the  
19 sentence shall reflect a class C felony;

20 4. For offenses committed under section 120.05 of this chapter, the  
21 sentence shall reflect a class C felony;

22 5. For offenses committed under section 120.06 of this chapter, the  
23 sentence shall reflect a class B felony;

24 6. For offenses committed under section 120.07 of this chapter, the  
25 sentence shall reflect a class A felony;

26 7. For offenses committed under section 120.08 of this chapter, the  
27 sentence shall reflect a class B felony;

28 8. For offenses committed under section 120.09 of this chapter, the  
29 sentence shall reflect a class B felony;

30 9. For offenses committed under section 120.10 of this chapter, the  
31 sentence shall reflect a class A felony;

32 10. For offenses committed under section 120.11 of this chapter, the  
33 sentence shall reflect a class A felony;

34 11. For offenses committed under section 120.12 of this chapter, the  
35 sentence shall reflect a class D felony;

36 12. For offenses committed under section 120.13 of this chapter, the  
37 sentence shall reflect a class D felony;

38 13. For offenses committed under section 120.14 of this chapter, the  
39 sentence shall reflect a class E felony;

40 14. For offenses committed under section 120.15 of this chapter, the  
41 sentence shall reflect a class A misdemeanor;

42 15. For offenses committed under section 120.16 of this chapter, the  
43 sentence shall reflect a class E felony;

44 16. For offenses committed under section 120.17 of this chapter, the  
45 sentence shall reflect a class B misdemeanor;

46 17. For offenses committed under section 120.18 of this chapter, the  
47 sentence shall reflect a class C felony;

48 18. For offenses committed under section 120.20 of this chapter, the  
49 sentence shall reflect a class E felony;

50 19. For offenses committed under section 120.25 of this chapter, the  
51 sentence shall reflect a class C felony;

52 20. For offenses committed under section 120.30 of this chapter, the  
53 sentence shall reflect a class D felony;

54 21. For offenses committed under section 120.45 of this chapter, the  
55 sentence shall reflect a class A misdemeanor;

1     22. For offenses committed under section 120.50 of this chapter, the  
2 sentence shall reflect a class E felony;

3     23. For offenses committed under section 120.55 of this chapter, the  
4 sentence shall reflect a class D felony;

5     24. For offenses committed under section 120.60 of this chapter, the  
6 sentence shall reflect a class C felony;

7     25. For offenses committed under section 120.70 of this chapter, the  
8 sentence shall reflect a class D felony;

9     26. For offenses committed under section 121.11 of this chapter, the  
10 sentence shall reflect a class E felony;

11     27. For offenses committed under section 121.12 of this chapter, the  
12 sentence shall reflect a class C felony;

13     28. For offenses committed under section 121.13 of this chapter, the  
14 sentence shall reflect a class B felony;

15     29. For offenses committed under section 125.10 of this chapter, the  
16 sentence shall reflect a class D felony;

17     29-a. For offenses committed under section 125.11 of this chapter, the  
18 sentence shall reflect a class B felony;

19     30. For offenses committed under section 125.15 of this chapter, the  
20 sentence shall reflect a class B felony;

21     31. For offenses committed under section 125.20 of this chapter, the  
22 sentence shall reflect a class A felony;

23     32. For offenses committed under section 125.21 of this chapter, the  
24 sentence shall reflect a class B felony;

25     33. For offenses committed under section 125.22 of this chapter, the  
26 sentence shall reflect a class A-II felony;

27     34. For offenses committed under section 125.26 of this chapter, the  
28 sentence shall reflect a class A-II felony;

29     35. For offenses committed under section 125.27 of this chapter, the  
30 sentence shall reflect a class A-II felony;

31     36. For offenses committed under section 130.20 of this chapter, the  
32 sentence shall reflect a class E felony;

33     37. For offenses committed under section 130.25 of this chapter, the  
34 sentence shall reflect a class D felony;

35     38. For offenses committed under section 130.30 of this chapter, the  
36 sentence shall reflect a class C felony;

37     39. For offenses committed under section 130.35 of this chapter, the  
38 sentence shall reflect a class A felony;

39     40. For offenses committed under section 130.40 of this chapter, the  
40 sentence shall reflect a class D felony;

41     41. For offenses committed under section 130.45 of this chapter, the  
42 sentence shall reflect a class C felony;

43     42. For offenses committed under section 130.50 of this chapter, the  
44 sentence shall reflect a class A felony;

45     43. For offenses committed under section 130.52 of this chapter, the  
46 sentence shall reflect a class E felony;

47     44. For offenses committed under section 130.53 of this chapter, the  
48 sentence shall reflect a class D felony;

49     45. For offenses committed under section 130.55 of this chapter, the  
50 sentence shall reflect a class A misdemeanor;

51     46. For offenses committed under section 130.60 of this chapter, the  
52 sentence shall reflect a class E felony;

53     47. For offenses committed under section 130.65 of this chapter, the  
54 sentence shall reflect a class C felony;

55     48. For offenses committed under section 130.65-a of this chapter, the  
56 sentence shall reflect a class D felony;

1     49. For offenses committed under section 130.66 of this chapter, the  
2 sentence shall reflect a class C felony;

3     50. For offenses committed under under section 130.67 of this chapter,  
4 the sentence shall reflect a class B felony;

5     51. For offenses committed under under section 130.70 of this chapter,  
6 the sentence shall reflect a class A felony;

7     52. For offenses committed under under section 130.75 of this chapter,  
8 the sentence shall reflect a class A felony;

9     53. For offenses committed under under section 130.80 of this chapter,  
10 the sentence shall reflect a class D felony;

11     54. For offenses committed under under section 130.90 of this chapter,  
12 the sentence shall reflect a class C felony;

13     55. For offenses committed under under section 135.05 of this chapter,  
14 the sentence shall reflect a class E felony;

15     56. For offenses committed under section 135.10 of this chapter, the  
16 sentence shall reflect a class D felony;

17     57. For offenses committed under section 135.20 of this chapter, the  
18 sentence shall reflect a class A felony;

19     58. For offenses committed under section 135.45 of this chapter, the  
20 sentence shall reflect a class E felony;

21     59. For offenses committed under section 135.50 of this chapter, the  
22 sentence shall reflect a class D felony;

23     60. For offenses committed under section 140.05 of this chapter, the  
24 sentence shall reflect a class B misdemeanor;

25     61. For offenses committed under section 140.10 of this chapter, the  
26 sentence shall reflect a class A misdemeanor;

27     62. For offenses committed under subdivision one of section 140.15 of  
28 this chapter, the sentence shall reflect a class E felony;

29     63. For offenses committed under section 140.17 of this chapter, the  
30 sentence shall reflect a class C felony;

31     64. For offenses committed under section 140.20 of this chapter, the  
32 sentence shall reflect a class C felony;

33     65. For offenses committed under section 140.25 of this chapter, the  
34 sentence shall reflect a class B felony;

35     66. For offenses committed under section 140.30 of this chapter, the  
36 sentence shall reflect a class A felony;

37     67. For offenses committed under section 140.35 of this chapter, the  
38 sentence shall reflect a class E felony;

39     68. For offenses committed under section 140.40 of this chapter, the  
40 sentence shall reflect a class A misdemeanor;

41     69. For offenses committed under section 145.05 of this chapter, the  
42 sentence shall reflect a class D felony;

43     70. For offenses committed under section 145.10 of this chapter, the  
44 sentence shall reflect a class C felony;

45     71. For offenses committed under section 145.12 of this chapter, the  
46 sentence shall reflect a class A felony;

47     72. For offenses committed under section 145.14 of this chapter, the  
48 sentence shall reflect a class A misdemeanor;

49     73. For offenses committed under section 145.15 of this chapter, the  
50 sentence shall reflect a class E felony;

51     74. For offenses committed under section 145.20 of this chapter, the  
52 sentence shall reflect a class D felony;

53     75. For offenses committed under section 145.30 of this chapter, the  
54 sentence shall reflect a class B misdemeanor;

55     76. For offenses committed under section 145.60 of this chapter, the  
56 sentence shall reflect a class E felony;

1 77. For offenses committed under section 145.70 of this chapter, the  
2 sentence shall reflect a class E felony;

3 78. For offenses committed under section 150.01 of this chapter, the  
4 sentence shall reflect a class E felony;

5 79. For offenses committed under section 150.05 of this chapter, the  
6 sentence shall reflect a class D felony;

7 80. For offenses committed under section 150.10 of this chapter, the  
8 sentence shall reflect a class B felony;

9 81. For offenses committed under section 150.15 of this chapter, the  
10 sentence shall reflect a class A felony;

11 82. For offenses committed under section 150.20 of this chapter, the  
12 sentence shall reflect a class A-II felony;

13 83. For offenses committed under section 160.05 of this chapter, the  
14 sentence shall reflect a class C felony;

15 84. For offenses committed under section 160.10 of this chapter, the  
16 sentence shall reflect a class B felony;

17 85. For offenses committed under section 160.15 of this chapter, the  
18 sentence shall reflect a class A felony;

19 86. For offenses committed under section 490.10 of this chapter, the  
20 sentence shall reflect a class C felony;

21 87. For offenses committed under section 490.15 of this chapter, the  
22 sentence shall reflect a class B felony;

23 88. For offenses committed under section 490.20 of this chapter, the  
24 sentence shall reflect a class C felony;

25 89. For offenses committed under section 490.30 of this chapter, the  
26 sentence shall reflect a class B felony;

27 90. For offenses committed under section 490.35 of this chapter, the  
28 sentence shall reflect a class A-II felony;

29 91. For offenses committed under section 490.37 of this chapter, the  
30 sentence shall reflect a class B felony;

31 92. For offenses committed under section 490.40 of this chapter, the  
32 sentence shall reflect a class A-II felony;

33 93. For offenses committed under section 490.45 of this chapter, the  
34 sentence shall reflect a class A-II felony; and

35 94. For offenses committed under section 490.50 of this chapter, the  
36 sentence shall reflect a class A-I felony.

37 § 4. Subdivision 3 of section 140.17 of the penal law, as added by  
38 chapter 341 of the laws of 1969, is amended and a new subdivision 4 is  
39 added to read as follows:

40 3. Knows that another participant in the crime possesses a firearm,  
41 rifle or shotgun under circumstances described in subdivision two[+] of  
42 this section; or

43 4. Was previously convicted of any provision of this article and was  
44 served with notice that his or her privileges to utilize buildings,  
45 facilities or transportation services owned, leased or operated by the  
46 metropolitan transportation authority were suspended or revoked.

47 § 5. The criminal procedure law is amended by adding a new section  
48 380.67 to read as follows:

49 § 380.67 Offense which is committed in or upon a building, facility,  
50 property, vehicle or train owned, leased or operated by the  
51 metropolitan transportation authority; suspension or revoca-  
52 tion.

53 1. Upon conviction of any provisions specified in article 120, 121,  
54 125, 130, 135, 140, 145, 150, 160, or 490 of the penal law and where  
55 matter occurred while in or upon a building, facility, property, vehicle  
56 or train owned, leased or operated by the metropolitan transportation

1 authority and such conviction resulted in the enhancement of such  
2 sentence pursuant to section 70.11 of the penal law, the metropolitan  
3 transportation authority may prevent entry and usage of its services by  
4 serving notice upon the convicted person that his or her privileges to  
5 utilize the authority's buildings, facilities or transportation services  
6 are suspended or revoked.

7 2. The metropolitan transportation authority shall promulgate rules  
8 and regulations for the notice required pursuant to subdivision one of  
9 this section and shall provide for an administrative appeal process to  
10 review its actions upon request from the person denied access.

11 § 6. This act shall take effect on the sixtieth day after it shall  
12 have become a law.