

STATE OF NEW YORK

7259

2021-2022 Regular Sessions

IN SENATE

June 23, 2021

Introduced by Sen. REICHLIN-MELNICK -- read twice and ordered printed,
and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law and the criminal procedure law, in
relation to including certain violations involving the use of a
firearm as qualifying offenses for the purpose of imposing bail

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 32 to read as follows:

3 32. "Ghost gun" means any firearm, rifle or shotgun that is not seri-
4 alized in accordance with the requirements imposed on licensed importers
5 and licensed manufacturers pursuant to subsection (i) of section nine
6 hundred twenty-three of title eighteen of the United States code and
7 regulations issued pursuant thereto, except for antique firearms as
8 defined in subdivision fourteen of this section, as added by chapter
9 nine hundred eighty-six of the laws of nineteen hundred seventy-four, or
10 any firearm, rifle or shotgun manufactured prior to nineteen hundred
11 sixty-eight.

12 § 2. Paragraphs (s) and (t) of subdivision 4 of section 510.10 of the
13 criminal procedure law, as added by section 2 of part UU of chapter 56
14 of the laws of 2020, are amended and a new paragraph (u) is added to
15 read as follows:

16 (s) a felony, where the defendant qualifies for sentencing on such
17 charge as a persistent felony offender pursuant to section 70.10 of the
18 penal law; [~~ex~~]

19 (t) any felony or class A misdemeanor involving harm to an identifi-
20 able person or property, where such charge arose from conduct occurring
21 while the defendant was released on his or her own recognizance or
22 released under conditions for a separate felony or class A misdemeanor
23 involving harm to an identifiable person or property, provided, however,
24 that the prosecutor must show reasonable cause to believe that the

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

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1 defendant committed the instant crime and any underlying crime. For the
2 purposes of this [~~subparagraph~~] paragraph, any of the underlying crimes
3 need not be a qualifying offense as defined in this subdivision[]; or
4 (u) any crime in violation of article two hundred sixty-five of the
5 penal law involving the use of a machine-gun, firearm silencer, firearm,
6 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such
7 terms are defined in section 265.00 of the penal law.

8 § 3. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of
9 section 530.20 of the criminal procedure law, as amended by section 3 of
10 part UU of chapter 56 of the laws of 2020, are amended and a new subpar-
11 agraph (xxi) is added to read as follows:

12 (xix) a felony, where the defendant qualifies for sentencing on such
13 charge as a persistent felony offender pursuant to section 70.10 of the
14 penal law; [~~or~~]

15 (xx) any felony or class A misdemeanor involving harm to an identifi-
16 able person or property, where such charge arose from conduct occurring
17 while the defendant was released on his or her own recognizance or
18 released under conditions for a separate felony or class A misdemeanor
19 involving harm to an identifiable person or property, provided, however,
20 that the prosecutor must show reasonable cause to believe that the
21 defendant committed the instant crime and any underlying crime. For the
22 purposes of this subparagraph, any of the underlying crimes need not be
23 a qualifying offense as defined in this subdivision[]; or

24 (xxi) any crime in violation of article two hundred sixty-five of the
25 penal law involving the use of a machine-gun, firearm silencer, firearm,
26 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such
27 terms are defined in section 265.00 of the penal law.

28 § 4. Paragraphs (s) and (t) of subdivision 4 of section 530.40 of the
29 criminal procedure law, as added by section 4 of part UU of chapter 56
30 of the laws of 2020, are amended and a new paragraph (u) is added to
31 read as follows:

32 (s) a felony, where the defendant qualifies for sentencing on such
33 charge as a persistent felony offender pursuant to section 70.10 of the
34 penal law; [~~or~~]

35 (t) any felony or class A misdemeanor involving harm to an identifi-
36 able person or property, where such charge arose from conduct occurring
37 while the defendant was released on his or her own recognizance or
38 released under conditions for a separate felony or class A misdemeanor
39 involving harm to an identifiable person or property, provided, however,
40 that the prosecutor must show reasonable cause to believe that the
41 defendant committed the instant crime and any underlying crime. For the
42 purposes of this [~~subparagraph~~] paragraph, any of the underlying crimes
43 need not be a qualifying offense as defined in this subdivision[]; or

44 (u) any crime in violation of article two hundred sixty-five of the
45 penal law involving the use of a machine-gun, firearm silencer, firearm,
46 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such
47 terms are defined in section 265.00 of the penal law.

48 § 5. Paragraphs (a) and (e) of subdivision 2 of section 530.60 of the
49 criminal procedure law, as amended by section 20 of part JJJ of chapter
50 59 of the laws of 2019, are amended to read as follows:

51 (a) Whenever in the course of a criminal action or proceeding a
52 defendant charged with the commission of a felony is at liberty as a
53 result of an order of recognizance, release under non-monetary condi-
54 tions or bail issued pursuant to this article it shall be grounds for
55 revoking such order that the court finds reasonable cause to believe the
56 defendant committed one or more specified class A or violent felony

1 offenses, or intimidated a victim or witness in violation of section
2 215.15, 215.16 or 215.17 of the penal law or committed any crime in
3 violation of article two hundred sixty-five of the penal law involving
4 the use of a machine-gun, firearm silencer, firearm, rifle, shotgun,
5 disguised gun, ghost gun or assault weapon, as such terms are defined in
6 section 265.00 of the penal law, while at liberty.

7 (e) Notwithstanding the provisions of paragraph (a) or (b) of this
8 subdivision a defendant, against whom a felony complaint has been filed
9 which charges the defendant with commission of a class A or violent
10 felony offense, or violation of section 215.15, 215.16 or 215.17 of the
11 penal law or violation of article two hundred sixty-five of the penal
12 law involving the use of a machine-gun, firearm silencer, firearm,
13 rifle, shotgun, disguised gun, ghost gun or assault weapon, as such
14 terms are defined in section 265.00 of the penal law, committed while he
15 was at liberty as specified therein, may be committed to the custody of
16 the sheriff pending a revocation hearing for a period not to exceed
17 seventy-two hours. An additional period not to exceed seventy-two hours
18 may be granted by the court upon application of the district attorney
19 upon a showing of good cause or where the failure to commence the hear-
20 ing was due to the defendant's request or occurred with his consent.
21 Such good cause must consist of some compelling fact or circumstance
22 which precluded conducting the hearing within the initial prescribed
23 period.

24 § 6. This act shall take effect immediately.