

STATE OF NEW YORK

8309

2021-2022 Regular Sessions

IN ASSEMBLY

October 20, 2021

Introduced by M. of A. GALEF, ENGLEBRIGHT, THIELE, McDONALD, WOERNER, BUTTENSCHON, BARNWELL, STERN, SIMON -- Multi-Sponsored by -- M. of A. BYRNE, LAWLER, MONTESANO, MORINELLO, SALKA -- read once and referred to the Committee on Codes

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 Assembly, do enact as follows:

Section 1. Section 265.00 of the penal law is amended by adding a new subdivision 32 to read as follows:

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

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

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

(t) any felony or class A misdemeanor involving harm to an identifiable person or property, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance or released under conditions for a separate felony or class A misdemeanor

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

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1 involving harm to an identifiable person or property, provided, however,
2 that the prosecutor must show reasonable cause to believe that the
3 defendant committed the instant crime and any underlying crime. For the
4 purposes of this ~~[subparagraph]~~ paragraph, any of the underlying crimes
5 need not be a qualifying offense as defined in this subdivision~~[-]~~; or

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

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

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

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

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

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

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

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

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

50 § 5. Paragraphs (a) and (e) of subdivision 2 of section 530.60 of the
51 criminal procedure law, as amended by section 20 of part JJJ of chapter
52 59 of the laws of 2019, are amended to read as follows:

53 (a) Whenever in the course of a criminal action or proceeding a
54 defendant charged with the commission of a felony is at liberty as a
55 result of an order of recognizance, release under non-monetary condi-
56 tions or bail issued pursuant to this article it shall be grounds for

1 revoking such order that the court finds reasonable cause to believe the
2 defendant committed one or more specified class A or violent felony
3 offenses, or intimidated a victim or witness in violation of section
4 215.15, 215.16 or 215.17 of the penal law or committed any crime in
5 violation of article two hundred sixty-five of the penal law involving
6 the use of a machine-gun, firearm silencer, firearm, rifle, shotgun,
7 disguised gun, ghost gun or assault weapon, as such terms are defined in
8 section 265.00 of the penal law, while at liberty.

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

26 § 6. This act shall take effect immediately.