STATE OF NEW YORK

3886

2023-2024 Regular Sessions

IN ASSEMBLY

February 8, 2023

Introduced by M. of A. DICKENS, SEAWRIGHT, MORINELLO, COLTON, TAYLOR, ZEBROWSKI, BUTTENSCHON, SIMON, GLICK, McDONOUGH, K. BROWN, MIKULIN, GANDOLFO, J. A. GIGLIO, J. M. GIGLIO -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to aggravated harassment in the first degree

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

Section 1. Section 240.31 of the penal law, as amended by chapter 49 of the laws of 2006, the opening paragraph as amended by chapter 8 of the laws of 2019, subdivisions 3 and 4 as amended and subdivision 5 as added by chapter 74 of the laws of 2008, is amended to read as follows:

§ 240.31 Aggravated harassment in the first degree.

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

1. Damages premises primarily used for religious purposes, or acquired pursuant to section six of the religious corporation law and maintained for purposes of religious instruction, and the damage to the premises exceeds fifty dollars; or

2. Commits the crime of aggravated harassment in the second degree in the manner proscribed by the provisions of subdivision three of section 240.30 of this article and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he or she has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years; or

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

LBD03160-01-3

3. Etches, paints, draws upon or otherwise places a swastika, commonly exhibited as the emblem of Nazi Germany, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property; **or**

4. Sets on fire a cross in public view; or

5. Etches, paints, draws upon or otherwise places or displays a noose, commonly exhibited as a symbol of racism and intimidation, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property**; or**

6. Throws, tosses, spits, wipes, expels or transfers onto the person of another individual, without such person's consent, human or animal bodily fluids or matter, such as, but not limited to urine, blood, saliva, phlegm, feces, or any other substance defined as a bodily fluid or matter.

Aggravated harassment in the first degree is a class E felony.

§ 2. This act shall take effect immediately.