

# STATE OF NEW YORK

6141

2023-2024 Regular Sessions

## IN ASSEMBLY

April 3, 2023

Introduced by M. of A. CURRAN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to carjacking

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

1 Section 1. The penal law is amended by adding a new article 161 to  
2 read as follows:

3 ARTICLE 161

4 CARJACKING

5 Section 161.00 Carjacking; defined.

6 161.05 Carjacking in the third degree.

7 161.10 Carjacking in the second degree.

8 161.15 Carjacking in the first degree.

9 § 161.00 Carjacking; defined.

10 Carjacking. A person commits carjacking when, in the course of  
11 committing larceny of a motor vehicle from the person or presence of  
12 another person, he or she uses or threatens the immediate use of phys-  
13 ical force upon another person for the purpose of:

14 1. Preventing or overcoming resistance to the taking of the motor  
15 vehicle or to the retention thereof immediately after the taking; or

16 2. Compelling the owner of such motor vehicle or another person to  
17 deliver up the motor vehicle or to engage in other conduct which aids in  
18 the commission of the larceny.

19 § 161.05 Carjacking in the third degree.

20 A person is guilty of carjacking in the third degree when he or she  
21 forcibly steals a motor vehicle from the person or presence of another  
22 person.

23 Carjacking in the third degree is a class D felony.

24 § 161.10 Carjacking in the second degree.

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

LBD10541-01-3

1 A person is guilty of carjacking in the second degree when he or she  
2 forcibly steals a motor vehicle from the person or presence of another  
3 person and when:

4 1. He or she is aided by another person actually present; or

5 2. In the course of the commission of the crime or of immediate  
6 flight therefrom, he or she or another participant in the crime:

7 (a) Causes physical injury to any person who is not a participant in  
8 the crime; or

9 (b) Displays what appears to be a pistol, revolver, rifle, shotgun,  
10 machine gun or other firearm.

11 Carjacking in the second degree is a class C felony.

12 § 161.15 Carjacking in the first degree.

13 A person is guilty of carjacking in the first degree when he or she  
14 forcibly steals a motor vehicle from the person or presence of another  
15 person and when, in the course of the commission of the crime or of  
16 immediate flight therefrom, he or she or another participant in the  
17 crime:

18 1. Causes serious physical injury to any person who is not a partic-  
19 ipant in the crime; or

20 2. Is armed with a deadly weapon; or

21 3. Uses or threatens the immediate use of a dangerous instrument; or

22 4. Displays what appears to be a pistol, revolver, rifle, shotgun,  
23 machine gun or other firearm; except that in any prosecution under this  
24 subdivision, it is an affirmative defense that such pistol, revolver,  
25 rifle, shotgun, machine gun or other firearm was not a loaded weapon  
26 from which a shot, readily capable of producing death or other serious  
27 physical injury, could be discharged. Nothing contained in this subdi-  
28 vision shall constitute a defense to a prosecution for, or preclude a  
29 conviction of, carjacking in the second degree, carjacking in the third  
30 degree or any other crime.

31 Carjacking in the first degree is a class B felony.

32 § 2. Subdivision 1 of section 70.02 of the penal law, as separately  
33 amended by chapters 764 and 765 of the laws of 2005, paragraph (a) as  
34 amended by chapter 189 of the laws of 2018, paragraph (b) as amended by  
35 chapter 94 of the laws of 2020, paragraph (c) as amended by chapter 134  
36 of the laws of 2019 and paragraph (d) as amended by chapter 7 of the  
37 laws of 2007, is amended to read as follows:

38 1. Definition of a violent felony offense. A violent felony offense is  
39 a class B violent felony offense, a class C violent felony offense, a  
40 class D violent felony offense, or a class E violent felony offense,  
41 defined as follows:

42 (a) Class B violent felony offenses: an attempt to commit the class  
43 A-I felonies of murder in the second degree as defined in section  
44 125.25, kidnapping in the first degree as defined in section 135.25, and  
45 arson in the first degree as defined in section 150.20; manslaughter in  
46 the first degree as defined in section 125.20, aggravated manslaughter  
47 in the first degree as defined in section 125.22, rape in the first  
48 degree as defined in section 130.35, criminal sexual act in the first  
49 degree as defined in section 130.50, aggravated sexual abuse in the  
50 first degree as defined in section 130.70, course of sexual conduct  
51 against a child in the first degree as defined in section 130.75;  
52 assault in the first degree as defined in section 120.10, kidnapping in  
53 the second degree as defined in section 135.20, burglary in the first  
54 degree as defined in section 140.30, arson in the second degree as  
55 defined in section 150.15, robbery in the first degree as defined in  
56 section 160.15, carjacking in the first degree as defined in section

1 161.15, sex trafficking as defined in paragraphs (a) and (b) of subdivi-  
2 sion five of section 230.34, sex trafficking of a child as defined in  
3 section 230.34-a, incest in the first degree as defined in section  
4 255.27, criminal possession of a weapon in the first degree as defined  
5 in section 265.04, criminal use of a firearm in the first degree as  
6 defined in section 265.09, criminal sale of a firearm in the first  
7 degree as defined in section 265.13, aggravated assault upon a police  
8 officer or a peace officer as defined in section 120.11, gang assault in  
9 the first degree as defined in section 120.07, intimidating a victim or  
10 witness in the first degree as defined in section 215.17, hindering  
11 prosecution of terrorism in the first degree as defined in section  
12 490.35, criminal possession of a chemical weapon or biological weapon in  
13 the second degree as defined in section 490.40, and criminal use of a  
14 chemical weapon or biological weapon in the third degree as defined in  
15 section 490.47.

16 (b) Class C violent felony offenses: an attempt to commit any of the  
17 class B felonies set forth in paragraph (a) of this subdivision; aggra-  
18 vated criminally negligent homicide as defined in section 125.11, aggra-  
19 vated manslaughter in the second degree as defined in section 125.21,  
20 aggravated sexual abuse in the second degree as defined in section  
21 130.67, assault on a peace officer, police officer, firefighter or emer-  
22 gency medical services professional as defined in section 120.08,  
23 assault on a judge as defined in section 120.09, gang assault in the  
24 second degree as defined in section 120.06, strangulation in the first  
25 degree as defined in section 121.13, aggravated strangulation as defined  
26 in section 121.13-a, burglary in the second degree as defined in section  
27 140.25, robbery in the second degree as defined in section 160.10,  
28 carjacking in the second degree as defined in section 161.10, criminal  
29 possession of a weapon in the second degree as defined in section  
30 265.03, criminal use of a firearm in the second degree as defined in  
31 section 265.08, criminal sale of a firearm in the second degree as  
32 defined in section 265.12, criminal sale of a firearm with the aid of a  
33 minor as defined in section 265.14, aggravated criminal possession of a  
34 weapon as defined in section 265.19, soliciting or providing support for  
35 an act of terrorism in the first degree as defined in section 490.15,  
36 hindering prosecution of terrorism in the second degree as defined in  
37 section 490.30, and criminal possession of a chemical weapon or biolog-  
38 ical weapon in the third degree as defined in section 490.37.

39 (c) Class D violent felony offenses: an attempt to commit any of the  
40 class C felonies set forth in paragraph (b); reckless assault of a child  
41 as defined in section 120.02, assault in the second degree as defined in  
42 section 120.05, menacing a police officer or peace officer as defined in  
43 section 120.18, stalking in the first degree, as defined in subdivision  
44 one of section 120.60, strangulation in the second degree as defined in  
45 section 121.12, rape in the second degree as defined in section 130.30,  
46 criminal sexual act in the second degree as defined in section 130.45,  
47 sexual abuse in the first degree as defined in section 130.65, course of  
48 sexual conduct against a child in the second degree as defined in  
49 section 130.80, aggravated sexual abuse in the third degree as defined  
50 in section 130.66, facilitating a sex offense with a controlled  
51 substance as defined in section 130.90, labor trafficking as defined in  
52 paragraphs (a) and (b) of subdivision three of section 135.35, carjack-  
53 ing in the third degree as defined in section 161.05, criminal  
54 possession of a weapon in the third degree as defined in subdivision  
55 five, six, seven, eight, nine or ten of section 265.02, criminal sale of  
56 a firearm in the third degree as defined in section 265.11, intimidating

1 a victim or witness in the second degree as defined in section 215.16,  
2 soliciting or providing support for an act of terrorism in the second  
3 degree as defined in section 490.10, and making a terroristic threat as  
4 defined in section 490.20, falsely reporting an incident in the first  
5 degree as defined in section 240.60, placing a false bomb or hazardous  
6 substance in the first degree as defined in section 240.62, placing a  
7 false bomb or hazardous substance in a sports stadium or arena, mass  
8 transportation facility or enclosed shopping mall as defined in section  
9 240.63, aggravated unpermitted use of indoor pyrotechnics in the first  
10 degree as defined in section 405.18, and criminal manufacture, sale, or  
11 transport of an undetectable firearm, rifle or shotgun as defined in  
12 section 265.50.

13 (d) Class E violent felony offenses: an attempt to commit any of the  
14 felonies of criminal possession of a weapon in the third degree as  
15 defined in subdivision five, six, seven or eight of section 265.02 as a  
16 lesser included offense of that section as defined in section 220.20 of  
17 the criminal procedure law, persistent sexual abuse as defined in  
18 section 130.53, aggravated sexual abuse in the fourth degree as defined  
19 in section 130.65-a, falsely reporting an incident in the second degree  
20 as defined in section 240.55 and placing a false bomb or hazardous  
21 substance in the second degree as defined in section 240.61.

22 § 3. This act shall take effect on the first of November next succeed-  
23 ing the date on which it shall have become a law.