STATE OF NEW YORK

8473

2023-2024 Regular Sessions

IN ASSEMBLY

December 29, 2023

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

AN ACT to amend the penal law, in relation to establishing the crime of package theft in the fourth, third, second and first degrees

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

Section 1. The penal law is amended by adding six new sections 165.75, 165.76, 165.77, 165.78, 165.79 and 165.80 to read as follows:

§ 165.75 Package theft in the fourth degree.

A person is guilty of package theft in the fourth degree when he or she knowingly takes a package or packages which contain one or more items intended for another person with intent to benefit himself or herself or a person other than the intended recipient of such package or packages and

the combined value of the item or items within such package or packages or the replacement cost of such item or items exceeds one dollar.

Package theft in the fourth degree is a class A misdemeanor.

§ 165.76 Package theft in the third degree.

A person is guilty of package theft in the third degree when he or she knowingly takes a package or packages which contain one or more items intended for another person with intent to benefit himself or herself or a person other than the intended recipient of such package or packages and:

1. the combined value of the property within such package or packages or the replacement cost of such property exceeds twenty-five dollars;

2. two or more packages are taken; or

3. a person has previously been convicted of package theft under section 165.75 of this article.

Package theft in the third degree is a class E felony.

§ 165.77 Package theft in the second degree.

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

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A person is guilty of package theft in the second degree when he or she knowingly takes a package or packages which contain one or more items intended for another person with intent to benefit himself or herself or a person other than the intended recipient and such package or packages contain medicine, a medical device or devices, or parts of a medical device or devices which were prescribed to the intended recipient, a person within the intended recipient's household, or a person within the intended recipient's family or care.

Package theft in the second degree is a class D felony.

§ 165.78 Package theft in the first degree.

1. A person is guilty of package theft in the first degree when he or she knowingly takes a package or packages which contain one or more items intended for another person with intent to benefit himself or herself or a person other than the intended recipient and:

(a) such package or packages contain medicine, a medical device or devices or parts of a medical device or devices which were prescribed to the intended recipient, a person within the intended recipient's household, or a person within the intended recipient's family or care;

(b) the outside area of such package or packages clearly bear words, markings, or symbols indicating that such package or packages contain medicine, a medical device or devices or parts of a medical device or devices; and

(c) the intended recipient, a person within the intended recipient's household, or a person within the intended recipient's family or care suffers a serious adverse health condition as a result of their inability to access such medication, medical device or medical devices, or parts of a medical device or devices.

2. For purposes of this section, the term "serious adverse health condition" shall mean any condition suffered by a person which:

(a) substantially prolongs such person's potential or existing health condition;

(b) causes such person to lose a limb or organ;

(c) causes such person to permanently or for a prolonged period of time lose or have limited a bodily function;

(d) severely degrades such person's quality of life for a prolonged period of time;

(e) shortens the length of such person's life;

(f) causes incapacitation of such person; or

(g) causes the death of such person.

Package theft in the first degree is a class B felony.

§ 165.79 Package theft; no defense.

1. In any prosecution for package theft in the fourth, third, and second degree, it is not a defense that:

(a) The person who took the package was unaware of the contents within the package or packages; or

(b) The person who took the package abandoned, destroyed, or otherwise relinquished possession of the package to a third party other than the intended recipient after it was taken.

2. In addition to the defenses provided in subdivision one of this section in any prosecution for package theft in the first degree, it is not a defense that:

(a) The person who took the package did not intend to cause or foresee the serious adverse health condition of the intended recipient;

(b) The person who took the package believed that the intended recipient would not suffer a serious adverse health condition as a result of the theft;

(c) The person who took the package did not see the words, markings, or symbols indicating that the package contained prescription medicine, a medical device or devices or parts of a medical device or devices as a result of the words, markings, or symbols being blocked or covered as a result of the package's position or orientation; or

(d) The person who took the package intended only to temporarily possess or use the contents of the package, without intending to permanently deprive the owner of it.

§ 165.80 Package theft; defenses.

1. Notwithstanding any other defenses provided for in law, in any prosecution for package theft in the fourth, third, and second degree, it shall be a defense that:

(a) the person who took the package genuinely believed the package was theirs or intended for them;

(b) the person who took the package genuinely believed that they were authorized or had the consent of the owner to take the package; or

(c) there was a genuine dispute over the ownership of the contents of the package.

2. In addition to the defense provided in subdivision one of this section, in any prosecution for package theft in the first degree, it shall be a defense that the words, markings, or symbols indicating that the package contained prescription medicine, a medical device or devices or parts of a medical device or devices was obscured as a result of damage to the package or the improper placement of shipping materials completely obscuring the words, markings, or symbols done by the mail carrier or the manufacturer or distributor of the medicine, medical device or devices or parts of the medical device or devices.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.