

# STATE OF NEW YORK

8774

## IN SENATE

March 11, 2024

Introduced by Sen. OBERACKER -- read twice and ordered printed, and when printed to be committed 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:

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

6 A person is guilty of aggravated harassment in the first degree when  
7 with intent to harass, annoy, threaten or alarm another person, or to  
8 incite violence because of a belief or perception regarding such other  
9 person's race, color, national origin, ancestry, gender, gender identity  
10 or expression, religion, religious practice, age, disability or sexual  
11 orientation, regardless of whether the belief or perception is correct,  
12 [~~he or she~~] such person:

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

17 2. Commits the crime of aggravated harassment in the second degree in  
18 the manner proscribed by the provisions of subdivision three of section  
19 240.30 of this article and has been previously convicted of the crime of  
20 aggravated harassment in the second degree for the commission of conduct  
21 proscribed by the provisions of subdivision three of section 240.30 or  
22 [~~he or she~~] such person has been previously convicted of the crime of  
23 aggravated harassment in the first degree within the preceding ten  
24 years; or

25 3. Etches, paints, draws upon or otherwise places or displays a swast-  
26 ika, commonly exhibited as the emblem of Nazi Germany, [~~on any building~~  
27 ~~or other real property, public or private, owned by any person, firm or~~  
28 ~~corporation or any public agency or instrumentality, without express~~

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

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~~permission of the owner or operator of such building or real property]~~  
or other symbol associated with or derived from Nazi Germany, in a  
public location in a manner that is likely to cause another person to  
feel harassed, annoyed, threatened or alarmed, or to incite violence; 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 build-  
ing 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.

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

§ 2. This act shall take effect on the thirtieth day after it shall  
have become a law.