

6102--A

2009-2010 Regular Sessions

I N S E N A T E

July 29, 2009

Introduced by Sens. ADAMS, LEIBELL -- (at request of the Division of Criminal Justice Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the criminal procedure law, the general business law and the public officers law, in relation to peace officer training; and repealing section 845-a of the executive law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 845-a of the executive law is REPEALED.
2 S 2. Section 845 of the executive law, as added by chapter 482 of the
3 laws of 1979, is amended to read as follows:
4 S 845. Central state registry of police officers AND PEACE OFFICERS.
5 1. The division shall collect information to maintain, on a current
6 basis, a registry of all police officers AND PEACE OFFICERS in the
7 state. Such registry shall contain, with respect to each [police] offi-
8 cer, his OR HER name, date of birth, social security number, rank or
9 title, [department] EMPLOYER, and [whether he is employed full-time or
10 part-time] DATE OF SUCCESSFUL COMPLETION OF TRAINING REQUIRED BY SECTION
11 2.30 OF THE CRIMINAL PROCEDURE LAW AND SECTION TWO HUNDRED NINE-Q OF THE
12 GENERAL MUNICIPAL LAW.
13 2. Each head of a state or local agency, unit of local government,
14 state or local commission, [or] public authority OR OTHER ORGANIZATION
15 which employs police officers OR PEACE OFFICERS shall transmit to the
16 division, no later than the fifteenth day of January[, nineteen hundred
17 eighty] ANNUALLY, AND IN A FORM AND MANNER PRESCRIBED BY THE DIVISION, a
18 list containing the name of every police officer OR PEACE OFFICER
19 employed by his OR HER agency, government, commission, authority or
20 organization [on the first day of January, nineteen hundred eighty,]

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

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1 indicating with respect to each [police] officer his OR HER date of
2 birth, social security number, rank or title, [department] EMPLOYER, AND
3 whether he is employed full-time or part-time. [Each such head shall
4 thereafter, no later than the tenth day of each January and July, trans-
5 mit to the division a list of those police officers who have been
6 appointed, have had a change of rank, or have ceased to serve in the
7 preceding six calendar months and, in the instance of new appointees,
8 shall include all the information required to be furnished in the
9 initial listing.] IN ADDITION TO SUCH ANNUAL LIST, EACH SUCH HEAD, WHEN-
10 EVER OFFICERS HAVE BEEN NEWLY APPOINTED OR HAVE CEASED TO SERVE, SHALL
11 IMMEDIATELY TRANSMIT TO THE DIVISION, IN A FORM AND MANNER PRESCRIBED BY
12 THE DIVISION, A LIST CONTAINING THE NAMES OF SUCH OFFICERS WHICH, IN THE
13 INSTANCE OF NEW APPOINTEES, SHALL INCLUDE ALL THE INFORMATION REQUIRED
14 TO BE FURNISHED IN THE ANNUAL LISTING.

15 3. [Each such head shall have the option to enter into an agreement
16 with the division whereby the required semi-annual updating of registry
17 information may be regularly done on a more frequent basis.] THE DIVI-
18 SION SHALL ESTABLISH RULES AND REGULATIONS TO PROVIDE FOR A PERMANENT
19 SYSTEM OF IDENTIFICATION FOR EACH POLICE AND PEACE OFFICER, WHICH SHALL
20 INCLUDE PROCEDURES FOR UPDATING THE REGISTRY UPON AN OFFICER'S FAILURE
21 TO COMPLETE REQUIRED TRAINING WITHIN THE TIME LIMITATIONS ESTABLISHED IN
22 LAW OR REGULATION.

23 4. UPON THE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF
24 SUBDIVISION TWO OF THIS SECTION, THE COMMISSIONER MAY APPLY TO THE
25 SUPREME COURT FOR AN ORDER DIRECTED TO THE PERSON RESPONSIBLE REQUIRING
26 COMPLIANCE. UPON SUCH APPLICATION THE COURT MAY ISSUE SUCH ORDER AS MAY
27 BE JUST, AND A FAILURE TO COMPLY WITH THE ORDER OF THE COURT SHALL BE A
28 CONTEMPT OF COURT AND PUNISHABLE AS SUCH.

29 5. THE DIVISION SHALL COOPERATE WITH THE DIVISION OF STATE POLICE IN
30 MAKING THE INFORMATION IN THE CENTRAL REGISTRY OF POLICE AND PEACE OFFI-
31 CERS AVAILABLE FOR THE PURPOSE OF VERIFYING TRANSACTIONS INVOLVING
32 FIREARMS.

33 S 3. Section 2.30 of the criminal procedure law, as added by chapter
34 843 of the laws of 1980, subdivision 1 as amended by chapter 766 of the
35 laws of 1989, the third undesignated paragraph of subdivision 1 as
36 amended by chapter 474 of the laws of 1991, subdivision 5 as added by
37 chapter 543 of the laws of 1987 and subdivision 6 as added by chapter
38 735 of the laws of 1988, is amended to read as follows:
39 S 2.30 Training requirements for peace officers.

40 1. Every peace officer in the state of New York[, appointed after the
41 effective date of this article, who works a full complement of hours
42 which constitutes full-time employment for the officer's employer,] must
43 successfully complete a training program, a portion of which shall be
44 prescribed by the municipal police training council and A PORTION OF
45 WHICH SHALL BE PRESCRIBED by his OR HER employer[, the state or local
46 agency, unit of local government, state or local commission, or public
47 authority or private organization that employs him]. The portion
48 prescribed by the municipal police training council shall be comprised
49 of subjects, and the hours each is to be taught, that shall be required
50 of all types or classes of peace officers. The hours of instruction
51 required by the municipal police training council shall not exceed
52 [thirty-five] ONE HUNDRED EIGHTY, unless a greater amount is either
53 required by law or regulation, or is requested by the employer.

54 The segment prescribed by the employer for [his] ITS employees shall
55 be comprised of subjects, and the hours each is to be taught, relating
56 to the special nature of the duties of the peace officers employed by

[him] IT PROVIDED, HOWEVER, THAT WHEN THE SUBJECTS PRESCRIBED BY THE EMPLOYER ARE IDENTICAL TO THE SUBJECTS IN THE TRAINING PROGRAM REQUIRED BY THE MUNICIPAL POLICE TRAINING COUNCIL, THE EMPLOYER SHALL NOT BE REQUIRED TO PROVIDE DUPLICATE TRAINING FOR THOSE SUBJECTS.

2. Each state or local agency, unit of local government, state or local commission, or public authority, or public or private organization which employs peace officers shall provide the training mandated by this section, [and transmit to the municipal police training council within six months after the effective date of this article the proposed training program for peace officers, comprised of subjects required by the employer,] the cost of which will be borne by the employer. [The program shall:

(a) List the subjects comprising the proposed curriculum and the number of hours each is to be taught;

(b) List the proposed instructors for each subject with their qualifications; and

(c) Indicate the proposed location of the school.

In the reviewing of the employer's submission, the instructors must be found qualified by background and experience, and if so found, the course shall be certified by the municipal police training council. When the subjects prescribed by the employer are identical to the subjects in the training program required by the municipal police training council, the officer shall not be required to take duplicate training for those subjects. It is the responsibility of every employer to provide the training program certified by the municipal police training council.] Each peace officer satisfactorily completing the course PRESCRIBED BY THE MUNICIPAL POLICE TRAINING COUNCIL shall be awarded a certificate by the division of criminal justice services attesting to that effect, and no person appointed as a peace officer [after the effective date of this article] shall exercise the powers of a peace officer, unless he OR SHE has received such certification within twelve months of appointment.

3. [Where an employer has authorized a peace officer to carry or use a weapon during any phase of the officer's official duties, which constitutes on-duty employment, the program shall include the same number of hours of instruction in deadly physical force and the use of firearms and other weapons as is required in the basic training program for police officers by the municipal police training council. The program shall include the information set forth in subdivision seven of section 265.10 of the penal law.] No employer shall allow any peace officer[, notwithstanding when the officer was appointed,] IT EMPLOYS to carry or use a weapon during any phase of the officer's official duties, which constitutes on-duty employment, unless the officer has satisfactorily completed a course of training approved by the municipal police training council in the use of deadly physical force and firearms and other weapons, and annually receives instruction in deadly physical force and the use of firearms and other weapons as approved by the municipal police training council. [The course of training in the use of deadly physical force and firearms and other weapons shall be provided by the officer's employer, not later than six months from the date on which the officer was appointed, where the officer is authorized to carry a weapon pursuant to law.

2.] 4. Upon the failure or refusal to comply with the requirements of [subdivision one of] this section, the commissioner of the division of criminal justice services shall apply to the supreme court for an order directed to the person responsible requiring compliance. Upon such application, the court may issue such order as may be just, and a fail-

1 ure to comply with the order of the court shall be a contempt of court
2 and punishable as such.

3 [3. Any individual who is a peace officer or a New York city special
4 patrolman on the effective date of this article and has previously taken
5 a formalized course of training while a peace officer or a New York city
6 special patrolman, may apply, in writing, to the municipal police train-
7 ing council for certification. The application shall be granted or
8 denied for reasons specifically and concisely stated in writing, and if
9 granted, the exact extent of any waiver of the training then presently
10 required for new appointees shall be set forth. The certification shall
11 be granted only if the municipal police training council determines that
12 the course of training previously taken by the applicant is in substan-
13 tial compliance with the training then presently required for new
14 appointees.

15 When an application is denied, it is the responsibility of the officer
16 to obtain the training that is required in order to obtain certif-
17 ication. When a peace officer meets the training requirements specified
18 herein, the division of criminal justice services shall issue that
19 person a certificate attesting to the fact that he has satisfactorily
20 completed the required training.

21 4. Any peace officer appointed after the effective date of this arti-
22 cle who normally works on a part-time basis for less than the full
23 complement of hours which would constitute full-time employment for
24 their position as determined by their employer, shall receive training
25 which may, in whole or in part, be in-service training. The portion of
26 the training program required by the municipal police training council
27 shall not exceed ten hours of instruction. The segment of the training
28 program prescribed by the employer shall be comprised of subjects, and
29 the hours each is to be taught, relating to the special nature of the
30 duties of the peace officers employed by him. Every employer who employs
31 part-time peace officers shall transmit to the municipal police training
32 council within six months after the effective date of this article the
33 proposed training program for its officers, in accordance with the
34 procedure and requirements set forth in subdivision one of this section.
35 Each peace officer satisfactorily completing the training requirements
36 shall be issued a certificate by the division of criminal justice
37 services attesting to that effect.]

38 5. Every employer of peace officers shall [annually] report to the
39 [municipal police training council] DIVISION OF CRIMINAL JUSTICE
40 SERVICES, in such form and at such time as the [council] DIVISION may by
41 regulation require, the names [and addresses] of all peace officers who
42 have[, during the course of the year,] satisfactorily completed any of
43 the training requirements prescribed by this section.

44 6. A certificate attesting to satisfactory completion of the training
45 requirements imposed under this section awarded to any peace officer by
46 the executive director of the municipal police training council pursuant
47 to this section shall remain valid:

48 (a) during the holder's continuous service as a peace officer; and

49 (b) for two years after the date of the commencement of an inter-
50 ruption in such service where the holder had, immediately prior to such
51 interruption, served as a peace officer for less than two consecutive
52 years; or

53 (c) for four years after the date of the commencement of an inter-
54 ruption in such service where the holder had, immediately prior to such
55 interruption, served as a peace officer for two consecutive years or
56 longer.

1 As used in this subdivision, the term "interruption" shall mean a
2 period of separation from employment as a peace officer by reason of
3 such officer's leave of absence, resignation or removal, other than
4 removal for cause.

5 S 4. Paragraph a of subdivision 2 of section 89-n of the general busi-
6 ness law, as added by chapter 336 of the laws of 1992 and such paragraph
7 as relettered by chapter 634 of the laws of 1994, is amended to read as
8 follows:

9 a. A security guard who has been or was previously employed as a peace
10 officer for eighteen months or more who exhibits a valid certificate
11 awarded pursuant to subdivision six of section 2.30 of the criminal
12 procedure law attesting to his or her satisfactory completion of the
13 training requirements imposed by section 2.30 of the criminal procedure
14 law shall be exempt from the requirements of paragraph c of subdivision
15 one of this section provided that such peace officer has completed a
16 course of firearms training approved by the municipal police training
17 council [pursuant to the last paragraph of subdivision one of section
18 2.30 of the criminal procedure law] provided, however, that nothing in
19 this subdivision shall be deemed to authorize such guard to carry,
20 possess, repair or dispose of a firearm unless the appropriate license
21 therefor has been issued pursuant to section 400.00 of the penal law.

22 S 5. Subdivision 8 of section 92 of the public officers law, as
23 amended by chapter 336 of the laws of 1992, is amended to read as
24 follows:

25 (8) Public safety agency record. The term "public safety agency
26 record" means a record of the STATE commission of correction, the tempo-
27 rary state commission of investigation, the department of correctional
28 services, the division for youth, the division of parole, the crime
29 victims board, the division of probation and correctional alternatives
30 or the division of state police or of any agency or component thereof
31 whose primary function is the enforcement of civil or criminal statutes
32 if such record pertains to investigation, law enforcement, confinement
33 of persons in correctional facilities or supervision of persons pursuant
34 to criminal conviction or court order, and any records maintained by the
35 division of criminal justice services pursuant to sections eight hundred
36 thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-sev-
37 en-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight
38 hundred thirty-nine, AND eight hundred forty-five[, and eight hundred
39 forty-five-a] of the executive law and by the department of state pursu-
40 ant to section ninety-nine of the executive law.

41 S 6. This act shall take effect on the first of January next succeed-
42 ing the date on which it shall have become a law, provided, however,
43 that completion of the training program required by subdivision 1 of
44 section 2.30 of the criminal procedure law as amended by section three
45 of this act shall apply only to peace officers appointed on or after the
46 effective date of this act, and provided further that peace officers
47 appointed prior to the effective date of this act shall be subject to
48 the training requirements in place at the time of their appointment.