

5371

2011-2012 Regular Sessions

I N S E N A T E

May 13, 2011

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the railroad law, in relation to authorizing conductors and motormen to carry tasers or electronic stun guns during the performance of his or her duties

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

1 Section 1. Subdivision a of section 265.20 of the penal law is amended
2 by adding a new paragraph 17 to read as follows:

3 17. (A) POSSESSION OR USE OF A TASER OR ELECTRONIC STUN GUN BY CONDUCT-
4 TORS OR MOTORMEN, AS SUCH TERMS ARE USED IN THE RAILROAD LAW, WHILE
5 PERFORMING RAILROAD DUTIES.

6 (B) FOR THE PURPOSES OF THIS PARAGRAPH THE TERMS "TASER" AND "ELEC-
7 TRONIC STUN GUN" SHALL MEAN ANY DEVICE DESIGNED PRIMARILY AS A WEAPON,
8 THE PURPOSE OF WHICH IS TO STUN, CAUSE MENTAL DISORIENTATION, KNOCK OUT
9 OR PARALYZE A PERSON BY PASSING A HIGH VOLTAGE ELECTRICAL SHOCK TO SUCH
10 PERSON.

11 S 2. The railroad law is amended by adding a new section 65-a to read
12 as follows:

13 S 65-A. USE OF TASERS BY CONDUCTORS AND MOTORMEN. 1. EVERY CONDUCTOR
14 OR MOTORMAN IN THE STATE OF NEW YORK MUST SUCCESSFULLY COMPLETE A TRAIN-
15 ING PROGRAM IN THE USE OF DEADLY PHYSICAL FORCE AND TASERS OR ELECTRONIC
16 STUN GUNS, WHICH SHALL BE PRESCRIBED BY THE SUPERINTENDENT OF STATE
17 POLICE.

18 2. NO EMPLOYER SHALL ALLOW ANY CONDUCTOR OR MOTORMAN IT EMPLOYS TO
19 CARRY OR USE A TASER OR ELECTRONIC STUN GUN DURING ANY PHASE OF SUCH
20 CONDUCTOR OR MOTORMAN'S OFFICIAL DUTIES, WHICH CONSTITUTES ON-DUTY
21 EMPLOYMENT, UNLESS SUCH CONDUCTOR OR MOTORMAN HAS SATISFACTORILY
22 COMPLETED A COURSE OF TRAINING APPROVED BY THE SUPERINTENDENT OF STATE
23 POLICE IN THE USE OF DEADLY PHYSICAL FORCE AND TASERS OR ELECTRONIC STUN
24 GUNS, AND ANNUALLY RECEIVES INSTRUCTION IN DEADLY PHYSICAL FORCE AND THE

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

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1 USE OF TASERS OR ELECTRONIC STUN GUNS AS APPROVED BY THE SUPERINTENDENT
2 OF STATE POLICE. SUCH TRAINING SHALL RELATE TO THE SPECIAL NATURE OF THE
3 DUTIES OF THE CONDUCTORS AND MOTORMEN.

4 3. UPON THE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF THIS
5 SECTION, THE ATTORNEY GENERAL OF THE STATE OF NEW YORK SHALL APPLY TO
6 THE SUPREME COURT FOR AN ORDER DIRECTED TO THE EMPLOYER RESPONSIBLE
7 REQUIRING COMPLIANCE. UPON SUCH APPLICATION, THE COURT MAY ISSUE SUCH
8 ORDER AS MAY BE JUST, AND A FAILURE TO COMPLY WITH THE ORDER OF THE
9 COURT SHALL BE A CONTEMPT OF COURT AND PUNISHABLE AS SUCH.

10 4. EVERY EMPLOYER OF CONDUCTORS OR MOTORMEN SHALL REPORT TO THE SUPER-
11 INTENDENT OF STATE POLICE, IN SUCH FORM AND AT SUCH TIME AS THE SUPER-
12 INTENDENT MAY BY REGULATION REQUIRE, THE NAMES OF ALL CONDUCTORS AND
13 MOTORMEN WHO HAVE SATISFACTORILY COMPLETED ANY OF THE TRAINING REQUIRE-
14 MENTS PRESCRIBED BY THIS SECTION.

15 5. A CERTIFICATE ATTESTING TO SATISFACTORY COMPLETION OF THE TRAINING
16 REQUIREMENTS IMPOSED UNDER THIS SECTION AWARDED TO ANY CONDUCTOR OR
17 MOTORMAN PURSUANT TO THIS SECTION SHALL REMAIN VALID:

18 (A) DURING THE HOLDER'S CONTINUOUS SERVICE AS A CONDUCTOR OR MOTORMAN;
19 AND

20 (B) FOR TWO YEARS AFTER THE DATE OF THE COMMENCEMENT OF AN INTER-
21 RUPTION IN SUCH SERVICE WHERE THE HOLDER HAD, IMMEDIATELY PRIOR TO SUCH
22 INTERRUPTION, SERVED AS A CONDUCTOR OR MOTORMAN FOR LESS THAN TWO
23 CONSECUTIVE YEARS; OR

24 (C) FOR FOUR YEARS AFTER THE DATE OF THE COMMENCEMENT OF AN INTER-
25 RUPTION IN SUCH SERVICE WHERE THE HOLDER HAD, IMMEDIATELY PRIOR TO SUCH
26 INTERRUPTION, SERVED AS A CONDUCTOR OR MOTORMAN FOR TWO CONSECUTIVE
27 YEARS OR LONGER.

28 6. FOR THE PURPOSES OF THIS SECTION:

29 (A) THE TERM "INTERRUPTION" SHALL MEAN A PERIOD OF SEPARATION FROM
30 EMPLOYMENT AS A CONDUCTOR OR MOTORMAN BY REASON OF SUCH CONDUCTOR'S OR
31 MOTORMAN'S LEAVE OF ABSENCE, RESIGNATION OR REMOVAL, OTHER THAN REMOVAL
32 FOR CAUSE; AND

33 (B) THE TERMS "TASER" AND "ELECTRONIC STUN GUN" SHALL MEAN ANY DEVICE
34 DESIGNED PRIMARILY AS A WEAPON, THE PURPOSE OF WHICH IS TO STUN, CAUSE
35 MENTAL DISORIENTATION, KNOCK OUT OR PARALYZE A PERSON BY PASSING A HIGH
36 VOLTAGE ELECTRICAL SHOCK TO SUCH PERSON.

37 S 3. This act shall take effect on the one hundred twentieth day after
38 it shall have become a law. Effective immediately, the addition, amend-
39 ment and/or repeal of any rule or regulation necessary for the implemen-
40 tation of this act on its effective date is authorized to be made on or
41 before such date.