

1982--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to unlawful surveillance in the first and second degrees

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

1 Section 1. Section 250.45 of the penal law, as added by chapter 69 of
2 the laws of 2003, subdivisions 1, 2 and 3 as amended by chapter 157 of
3 the laws of 2003, is amended to read as follows:
4 S 250.45 Unlawful surveillance in the second degree.
5 A person is guilty of unlawful surveillance in the second degree when:
6 1. For his or her own, or another person's amusement, entertainment,
7 or profit, or for the purpose of degrading or abusing a person, he or
8 she intentionally uses or installs, or permits the utilization or
9 installation of an imaging device to surreptitiously view, broadcast or
10 record a person dressing or undressing or the sexual or other intimate
11 parts of such person OR ENGAGING IN SEXUAL CONDUCT, AS DEFINED IN SUBDI-
12 VISION TEN OF SECTION 130.00 OF THIS CHAPTER, at a place and time when
13 such person has a reasonable expectation of privacy, without such
14 person's knowledge or consent; or
15 2. For his or her own, or another person's sexual arousal or sexual
16 gratification, he or she intentionally uses or installs, or permits the
17 utilization or installation of an imaging device to surreptitiously
18 view, broadcast or record a person dressing or undressing or the sexual
19 or other intimate parts of such person OR ENGAGING IN SEXUAL CONDUCT, AS
20 DEFINED IN SUBDIVISION TEN OF SECTION 130.00 OF THIS CHAPTER, at a place

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

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1 and time when such person has a reasonable expectation of privacy, with-
2 out such person's knowledge or consent; or

3 3. (a) For no legitimate purpose, he or she intentionally uses or
4 installs, or permits the utilization or installation of an imaging
5 device to surreptitiously view, broadcast or record a person in a
6 bedroom, changing room, fitting room, restroom, toilet, bathroom, wash-
7 room, shower or any room assigned to guests or patrons in a motel, hotel
8 or inn, without such person's knowledge or consent.

9 (b) For the purposes of this subdivision, when a person uses or
10 installs, or permits the utilization or installation of an imaging
11 device in a bedroom, changing room, fitting room, restroom, toilet,
12 bathroom, washroom, shower or any room assigned to guests or patrons in
13 a hotel, motel or inn, there is a rebuttable presumption that such
14 person did so for no legitimate purpose; or

15 4. Without the knowledge or consent of a person, he or she inten-
16 tionally uses or installs, or permits the utilization or installation of
17 an imaging device to surreptitiously view, broadcast or record, under
18 the clothing being worn by such person, the sexual or other intimate
19 parts of such person OR A PERSON ENGAGING IN SEXUAL CONDUCT, AS DEFINED
20 IN SUBDIVISION TEN OF SECTION 130.00 OF THIS CHAPTER.

21 Unlawful surveillance in the second degree is a class E felony.

22 S 2. Section 250.55 of the penal law, as added by chapter 69 of the
23 laws of 2003, is amended to read as follows:

24 S 250.55 Dissemination of an unlawful surveillance image in the second
25 degree.

26 A person is guilty of dissemination of an unlawful surveillance image
27 in the second degree when he or she, with knowledge of the unlawful
28 conduct by which an image or images of the sexual or other intimate
29 parts of another person or persons OR OF A PERSON ENGAGING IN SEXUAL
30 CONDUCT, AS DEFINED IN SUBDIVISION TEN OF SECTION 130.00 OF THIS CHAP-
31 TER, were obtained and such unlawful conduct would satisfy the essential
32 elements of the crime of unlawful surveillance in the first or second
33 degree, intentionally disseminates such image or images.

34 Dissemination of an unlawful surveillance image in the second degree
35 is a class A misdemeanor.

36 S 3. Section 250.60 of the penal law, as added by chapter 69 of the
37 laws of 2003, subdivisions 1 and 2 as amended by chapter 157 of the laws
38 of 2003, is amended to read as follows:

39 S 250.60 Dissemination of an unlawful surveillance image in the first
40 degree.

41 A person is guilty of dissemination of an unlawful surveillance image
42 in the first degree when:

43 1. He or she, with knowledge of the unlawful conduct by which an image
44 or images of the sexual or other intimate parts of another person or
45 persons OR OF A PERSON ENGAGING IN SEXUAL CONDUCT, AS DEFINED IN SUBDI-
46 VISION TEN OF SECTION 130.00 OF THIS CHAPTER, were obtained and such
47 unlawful conduct would satisfy the essential elements of the crime of
48 unlawful surveillance in the first or second degree, sells or publishes
49 such image or images; or

50 2. Having created a surveillance image in violation of section 250.45
51 or 250.50 of this article, or in violation of the law in any other
52 jurisdiction which includes all of the essential elements of either such
53 crime, or having acted as an accomplice to such crime, or acting as an
54 agent to the person who committed such crime, he or she intentionally
55 disseminates such unlawfully created image; or

1 3. He or she commits the crime of dissemination of an unlawful
2 surveillance image in the second degree and has been previously
3 convicted within the past ten years of dissemination of an unlawful
4 surveillance image in the first or second degree.

5 Dissemination of an unlawful surveillance image in the first degree is
6 a class E felony.

7 S 4. This act shall take effect on the first of November next succeed-
8 ing the date on which it shall have become a law.