

3000--A

2013-2014 Regular Sessions

I N   S E N A T E

January 28, 2013

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Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the railroad law, in relation to authorizing voluntary programs for conductors and motormen to carry tasers, electronic stun guns or dazer-taser computer controlled optical distractors 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 CONDUCTORS  
4     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 "ELECTRONIC  
7     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. THE TERM DAZER-TASER SHALL MEAN ANY DEVICE DESIGNED PRIMARILY AS  
11    A WEAPON, THE PURPOSE OF WHICH IS TO CAUSE A TRANSITORY REDUCTION OF  
12    VISUAL ACUITY, ELIMINATING THE THREAT'S ABILITY TO SEE, ENGAGE OR EFFECTIVELY  
13    TARGET THE OPERATOR.  
14    S 2. The railroad law is amended by adding a new section 65-a to read  
15    as follows:  
16    S 65-A. USE OF TASERS, ELECTRONIC STUN GUNS OR DAZER-TASERS BY CONDUCTORS  
17    AND MOTORMEN. 1. EVERY CONDUCTOR OR MOTORMAN WHO PARTICIPATES IN A  
18    PROGRAM TO BE ELIGIBLE TO CARRY A TASER, STUN GUN OR DAZER-TASER IN THE  
19    STATE OF NEW YORK MUST SUCCESSFULLY COMPLETE A TRAINING PROGRAM IN THE  
20    USE OF DEADLY PHYSICAL FORCE AND TASERS, ELECTRONIC STUN GUNS OR DAZER-  
21    TASERS, WHICH SHALL BE PRESCRIBED BY THE SUPERINTENDENT OF STATE POLICE.

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

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1 2. NO EMPLOYER WHO HAS VOLUNTARILY INCORPORATED INTO ITS ORGANIZATION  
2 A PROGRAM TO AUTHORIZE CONDUCTORS AND MOTORMEN TO CARRY TASERS, STUN  
3 GUNS OR DAZER-TASERS SHALL ALLOW ANY CONDUCTOR OR MOTORMAN IT EMPLOYS TO  
4 CARRY OR USE A TASER, ELECTRONIC STUN GUN OR DAZER-TASER DURING ANY  
5 PHASE OF SUCH CONDUCTOR OR MOTORMAN'S OFFICIAL DUTIES, WHICH CONSTITUTES  
6 ON-DUTY EMPLOYMENT, UNLESS SUCH CONDUCTOR OR MOTORMAN HAS SATISFACTORILY  
7 COMPLETED A COURSE OF TRAINING APPROVED BY THE SUPERINTENDENT OF STATE  
8 POLICE IN THE USE OF DEADLY PHYSICAL FORCE AND TASERS, ELECTRONIC STUN  
9 GUNS OR DAZER-TASERS, AND ANNUALLY RECEIVES INSTRUCTION IN DEADLY PHYS-  
10 ICAL FORCE AND THE USE OF TASERS, ELECTRONIC STUN GUNS OR DAZER-TASERS  
11 AS APPROVED BY THE SUPERINTENDENT OF STATE POLICE. SUCH TRAINING SHALL  
12 RELATE TO THE SPECIAL NATURE OF THE DUTIES OF THE CONDUCTORS AND MOTOR-  
13 MEN.

14 3. UPON THE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF THIS  
15 SECTION, THE ATTORNEY GENERAL OF THE STATE OF NEW YORK SHALL APPLY TO  
16 THE SUPREME COURT FOR AN ORDER DIRECTED TO THE EMPLOYER RESPONSIBLE  
17 REQUIRING COMPLIANCE. UPON SUCH APPLICATION, THE COURT MAY ISSUE SUCH  
18 ORDER AS MAY BE JUST, AND A FAILURE TO COMPLY WITH THE ORDER OF THE  
19 COURT SHALL BE A CONTEMPT OF COURT AND PUNISHABLE AS SUCH.

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

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

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

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

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

38 6. FOR THE PURPOSES OF THIS SECTION:

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

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

47 (C) THE TERM "DAZER-TASER" SHALL MEAN ANY DEVICE DESIGNED PRIMARILY AS  
48 A WEAPON, THE PURPOSE OF WHICH IS TO CAUSE A TRANSITORY REDUCTION OF  
49 VISUAL ACUITY, ELIMINATING THE THREAT'S ABILITY TO SEE, ENGAGE OR EFFEC-  
50 TIVELY TARGET THE OPERATOR.

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