S T A T E O F N E W Y O R K

2106

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. BENJAMIN, GREENE, ALFANO, WALKER -- Multi-Sponsored by -- M. of A. BARRA, CLARK, HOOPER, MILLER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to official misconduct during an emergency or natural or man-made disaster

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

Section 1. The penal law is amended by adding a new section 195.03 to read as follows:

S 195.03 OFFICIAL MISCONDUCT DURING AN EMERGENCY OR NATURAL OR MAN-MADE DISASTER.

A PUBLIC SERVANT IS GUILTY OF OFFICIAL MISCONDUCT DURING AN EMERGENCY OR NATURAL OR MAN-MADE DISASTER WHEN, WITHOUT CAUSE OR REASONABLE EXPLANATION:

1. HE OR SHE COMMITS AN ACT RELATING TO HIS OR HER OFFICE OR DUTY AS AN EMERGENCY FIRST RESPONDER, CONSTITUTING AN UNAUTHORIZED EXERCISE OF HIS OR HER OFFICIAL FUNCTIONS, KNOWING THAT SUCH ACT IS UNAUTHORIZED; OR

2. HE OR SHE KNOWINGLY REFRAINS FROM PERFORMING A DUTY WHICH IS IMPOSED UPON HIM OR HER BY LAW OR IS CLEARLY INHERENT IN THE NATURE OF HIS OR HER OFFICE OR POSITION, AS AN EMERGENCY FIRST RESPONDER; OR

3. HE OR SHE KNOWINGLY FAILS TO REPORT TO WORK AS AN EMERGENCY FIRST RESPONDER OR TO HIS OR HER OFFICIAL POSITION.

OFFICIAL MISCONDUCT DURING AN EMERGENCY OR NATURAL OR MAN-MADE DISASTER IS A CLASS E FELONY.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

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

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