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

5392

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. McKEVITT, KOLB, TOWNSEND, GIGLIO, McDONOUGH, WALKER, ALFANO, BARRA -- Multi-Sponsored by -- M. of A. BACALLES, ERRIGO, FINCH, FITZPATRICK, HAWLEY, OAKS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the criminal sale of police insignia

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

Section 1. Section 190.27 of the penal law, as added by chapter 99 of the laws of 1994, is amended to read as follows:

S 190.27 Criminal sale of a police uniform.

A person is guilty of criminal sale of a police uniform when he or she sells or offers for sale the uniform of any police officer to any person, unless presented with a valid photo identification card showing the purchaser to be a member of the police department which has authorized the requested uniform or an authorization to purchase specified uniforms signed by the police chief or the police commissioner of such police department accompanied by a personal photo identification. For purposes of this section, "police officer" shall include federal law enforcement officers, as defined in section 2.15 of the criminal procedure law; and "uniform" shall include all or any part of the uniform which identifies the wearer as a member of a police department, such as the uniform, [shield, badge,] numbers or other identifying insignias or emblems.

Criminal sale of a police uniform is a class A misdemeanor.

S 2. The penal law is amended by adding a new section 190.28 to read as follows:

S 190.28 CRIMINAL SALE OF POLICE INSIGNIA.

1. A PERSON IS GUILTY OF CRIMINAL SALE OF POLICE INSIGNIA WHEN HE OR SHE SELLS OR OFFERS FOR SALE ANY POLICE BADGE OR SHIELD TO ANY PERSON EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION, UNLESS THE

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

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PURCHASER PRESENTS A VALID PHOTO IDENTIFICATION SHOWING THE PURCHASER TO BE A POLICE OFFICER OR PEACE OFFICER, OR PRESENTS A WRITTEN AUTHORIZATION TO PURCHASE THE SPECIFIED ITEM SIGNED BY THE POLICE CHIEF OR POLICE COMMISSIONER OF THE POLICE DEPARTMENT OR AGENCY REPRESENTED BY SUCH INSIGNIA, ACCOMPANIED BY A PERSONAL PHOTOGRAPHIC IDENTIFICATION OF THE PURCHASER.

2. FOR THE PURPOSE OF THIS SECTION, "POLICE BADGE" OR "SHIELD" MEANS ANY BADGE OR SHIELD DESIGNED FOR OR REPLICATING THAT WHICH IS DESIGNED FOR WEAR ON A POLICE OR PEACE OFFICER'S UNIFORM, OR FOR CARRYING IN A WALLET, BADGE CASE OR BY OTHER CONCEALED METHOD, AND WHICH INCLUDES THE WORDING "POLICE", "POLICE OFFICER", "PEACE OFFICER", "CONSTABLE", "SPECIAL OFFICER", "SPECIAL PATROLMAN", OR "SPECIAL AGENT". FOR PURPOSES OF THIS SECTION, "POLICE BADGE" OR "SHIELD" INCLUDES BADGES AND SHIELDS OF FEDERAL LAW ENFORCEMENT OFFICERS AS DEFINED IN SECTION 2.15 OF THE CRIMINAL PROCEDURE LAW.

3. THIS SECTION SHALL NOT PERTAIN TO MINIATURE REPLICA BADGES OR SHIELDS WHICH ARE LESS THAN FIFTY PERCENT IN SIZE OF THE INSIGNIA THEY REPLICATE.

4. THE SALE OF OR OFFER TO SELL POLICE BADGES, SHIELDS, EMBROIDERED EMBLEMS OR OTHER INSIGNIA SHALL NOT BE PROHIBITED BY THIS SECTION WHEN THE PURCHASER DISPLAYS IDENTIFICATION INDICATING HE OR SHE IS:

(A) AN ACTIVE OR RETIRED POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER; OR

(B) A PERSON ENGAGED IN THE BUSINESS OF PROVISION OF PROPS OR COSTUMES FOR MOTION PICTURE OR THEATRICAL PRODUCTIONS; OR

(C) A PERSON REGULARLY ENGAGED IN THE BUSINESS OF RETAILING OR WHOLESALING LAW ENFORCEMENT UNIFORMS OR INSIGNIA; OR

(D) A CURATOR OF A MUSEUM OPEN TO THE PUBLIC WHO IS PURCHASING INSIGNIA FOR MUSEUM DISPLAY; OR

(E) A BONA FIDE LAW ENFORCEMENT HISTORIAN OR INSIGNIA COLLECTOR WHO IS A MEMBER OF A DULY ORGANIZED ASSOCIATION OR ORGANIZATION OF SUCH HISTORIANS OR COLLECTORS, WHOSE NON-LAW ENFORCEMENT MEMBERS HAVE BEEN SPONSORED BY LAW ENFORCEMENT OFFICERS.

CRIMINAL SALE OF POLICE INSIGNIA IS A CLASS A MISDEMEANOR.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.