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

6033

2009-2010 Regular Sessions

I N A S S E M B L Y

February 24, 2009

Introduced by M. of A. KOON, PHEFFER, GALEF, MAGEE, HIKIND -- Multi-Sponsored by -- M. of A. GUNTHER, LAVINE, MAYERSOHN, SWEENEY, WALKER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to creating the new crime of manslaughter of a peace officer, police officer, auxiliary police officer, firefighter or emergency medical services provider as a class B felony offense

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 125.23 to read as follows:

S 125.23 MANSLAUGHTER OF A PEACE OFFICER, POLICE OFFICER, AUXILIARY POLICE OFFICER, FIREFIGHTER OR EMERGENCY MEDICAL SERVICES PROVIDER.

A PERSON IS GUILTY OF MANSLAUGHTER OF A PEACE OFFICER, POLICE OFFICER, AUXILIARY POLICE OFFICER, FIREFIGHTER OR EMERGENCY MEDICAL SERVICES PROVIDER WHEN, WITH INTENT TO PREVENT A POLICE OFFICER, AUXILIARY POLICE OFFICER, PEACE OFFICER, A FIREFIGHTER, INCLUDING A FIREFIGHTER ACTING AS A PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN ADMINISTERING FIRST AID IN THE COURSE OF PERFORMANCE OF DUTY AS SUCH FIREFIGHTER, OR AN EMERGENCY MEDICAL SERVICE PARAMEDIC OR EMERGENCY MEDICAL SERVICE TECHNICIAN, FROM PERFORMING A LAWFUL DUTY, HE OR SHE CAUSES THE DEATH OF SUCH PEACE OFFICER, POLICE OFFICER, AUXILIARY POLICE OFFICER, FIREFIGHTER, PARAMEDIC OR TECHNICIAN.

MANSLAUGHTER OF A PEACE OFFICER, POLICE OFFICER, AUXILIARY POLICE OFFICER, FIREFIGHTER OR EMERGENCY MEDICAL SERVICES PROVIDER IS A CLASS B FELONY.

S 2. Paragraph (a) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

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

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(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, MANSLAUGHTER OF A PEACE OFFICER, POLICE OFFICER, AUXILIARY POLICE OFFICER, FIREFIGHTER OR EMERGENCY MEDICAL SERVICES PROVIDER AS DEFINED IN SECTION 125.23, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, criminal sexual act in the first degree as defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75; assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.

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