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

2786

2009-2010 Regular Sessions

I N S E N A T E

March 3, 2009

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the criminal procedure law, in relation to requiring a police officer or peace officer who discharges his or her weapon under circumstances where a person could be struck by a bullet to immediately report the incident

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

Section 1. The executive law is amended by adding a new section 231 to read as follows:

S 231. REPORT OF DISCHARGE OF WEAPON. 1. ANY POLICE OFFICER WHO DISCHARGES HIS OR HER WEAPON WHILE ON DUTY OR OFF DUTY UNDER CIRCUMSTANCES WHEREIN A PERSON COULD BE STRUCK BY A BULLET FROM THE WEAPON, INCLUDING SITUATIONS WHEREIN SUCH OFFICER DISCHARGES HIS OR HER WEAPON IN THE DIRECTION OF A PERSON OR AN ANIMAL, SHALL VERBALLY REPORT THE INCIDENT TO HIS OR HER SUPERIORS WITHIN SIX HOURS OF THE OCCURRENCE OF THE INCIDENT AND SHALL PREPARE AND FILE A WRITTEN REPORT OF THE INCIDENT WITHIN FORTY-EIGHT HOURS OF THE OCCURRENCE OF THE INCIDENT. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT ANY POLICE OFFICER FROM INVOKING HIS OR HER CONSTITUTIONAL RIGHT TO AVOID SELF-INCRIMINATION.

2. AS USED IN THIS SECTION "POLICE OFFICER" MEANS A MEMBER OF THE STATE POLICE.

S 2. The criminal procedure law is amended by adding a new section 2.35 to read as follows:

S 2.35 REPORT OF DISCHARGE OF WEAPON.

1. ANY PEACE OFFICER WHO DISCHARGES HIS OR HER WEAPON WHILE ON DUTY OR OFF DUTY UNDER CIRCUMSTANCES WHEREIN A PERSON COULD BE STRUCK BY A BULLET FROM THE WEAPON, INCLUDING SITUATIONS WHEREIN SUCH OFFICER DISCHARGES HIS OR HER WEAPON IN THE DIRECTION OF A PERSON OR AN ANIMAL, SHALL VERBALLY REPORT THE INCIDENT TO HIS OR HER SUPERIORS WITHIN SIX HOURS OF THE OCCURRENCE OF THE INCIDENT AND SHALL PREPARE AND FILE A

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

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WRITTEN REPORT OF THE INCIDENT WITHIN FORTY-EIGHT HOURS OF THE OCCURRENCE OF THE INCIDENT. NOTHING CONTAINED IN THIS SECTION SHALL PREVENT ANY PEACE OFFICER FROM INVOKING HIS OR HER CONSTITUTIONAL RIGHT TO AVOID SELF-INCRIMINATION.

2. AS USED IN THIS SECTION "PEACE OFFICER" MEANS A PEACE OFFICER AS DEFINED IN SECTION 2.10 OF THIS ARTICLE.

S 3. This act shall take effect immediately.