

1 4. "LIVESTOCK" MEANS CATTLE, SHEEP, HOGS, GOATS, HORSES, POULTRY,
2 RATITES (SUCH AS OSTRICHES, EMUS, RHEAS AND KIWIS), FARMED DEER, FARMED
3 BUFFALO, AND FUR BEARING ANIMALS.

4 5. "PLANTS" MEANS TREES, SHRUBS, VINES, ANNUALS, BIENNIALS, PERENNI-
5 ALS, VEGETABLES, FORAGE AND CEREAL PLANTS AND ALL OTHER PLANT CUTTINGS,
6 GRAFTS, SCIONS, BUDS, AND OTHER PARTS OF PLANTS AND FRUIT, VEGETABLES,
7 ROOTS, BULBS, SEEDS, WOOD AND LUMBER.

8 S 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

9 A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE SECOND DEGREE
10 WHEN HE OR SHE:

11 1. INTENTIONALLY DESIGNS, MANUFACTURES OR ALTERS GENETIC MATERIAL TO
12 CREATE A BIOLOGICAL AGENT OR TOXIN WITH THE INTENT TO DESTROY A FOOD OR
13 FARM PRODUCT OR TO RENDER A FOOD OR FARM PRODUCT OTHERWISE UNDESIRABLE
14 FOR ITS CUSTOMARY USE; OR

15 2. INTENTIONALLY DESIGNS, DEVELOPS OR UTILIZES A PROCESS OR PROCESSES
16 TO GENETICALLY ALTER ANY PLANT USED FOR HUMAN OR LIVESTOCK CONSUMPTION
17 WITH THE INTENT TO RENDER SUCH PLANT TOXIC OR UNFIT FOR HUMAN OR LIVE-
18 STOCK CONSUMPTION.

19 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE IS A CLASS D FELONY.

20 S 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

21 A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE FIRST DEGREE
22 WHEN HE OR SHE:

23 1. INTENTIONALLY INTRODUCES A BIOLOGICAL ORGANISM, TOXIN OR TOXIC
24 CHEMICAL WITH THE INTENTION OF CAUSING HARM TO OR DISEASE OR DEATH OF
25 LIVESTOCK, OR RENDERING THE PRODUCTS OF SUCH LIVESTOCK UNFIT FOR HUMAN
26 CONSUMPTION;

27 2. INTENTIONALLY CONTAMINATES, ADULTERATES, DEFILES, CORRUPTS OR
28 ALTERS A FOOD OR FARM PRODUCT WITH THE INTENT TO INJURE, SICKEN OR KILL
29 PERSONS OR LIVESTOCK; OR

30 3. INTENTIONALLY INTRODUCES ANY BIOLOGICAL ORGANISM TO PLANTS OR CROPS
31 WITH THE INTENT TO RENDER SUCH PLANTS OR CROPS TOXIC OR OTHERWISE UNFIT
32 FOR HUMAN OR LIVESTOCK CONSUMPTION, OR UNDESIRABLE FOR THEIR CUSTOMARY
33 USE, OR TO CAUSE THE LAND UPON WHICH SUCH PLANTS OR CROPS ARE PRODUCED
34 TO BE UNSUITABLE FOR FURTHER AGRICULTURAL USE OR PRODUCTION.

35 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE IS A CLASS C FELONY.

36 S 280.15 LIMITATIONS OF APPLICATION.

37 THIS ARTICLE DOES NOT APPLY TO ANY PROPERLY CONDUCTED SCIENTIFIC
38 TESTS, EXPERIMENTS, INVESTIGATIONS OR OTHER LAWFUL ACTIVITY INVOLVING
39 THE USE OF CROPS, FARM PRODUCTS, FOOD, FOOD PRODUCTS, LIVESTOCK OR
40 PLANTS, AS DEFINED IN THIS ARTICLE, PERFORMED FOR ONE OR MORE OF THE
41 FOLLOWING PURPOSES:

42 1. ANY PURPOSE SPECIFICALLY PERMITTED BY LAW;

43 2. ANY PEACEFUL PURPOSE RELATED TO AN INDUSTRIAL, AGRICULTURAL,
44 RESEARCH, MEDICAL, OR PHARMACEUTICAL ACTIVITY OR OTHER PEACEFUL ACTIV-
45 ITY;

46 3. ANY PURPOSE DIRECTLY RELATED TO PROTECTION AGAINST TOXIC CHEMICALS
47 AND TO PROTECTION AGAINST CHEMICAL WEAPONS;

48 4. ANY MILITARY PURPOSE OF THE UNITED STATES THAT IS NOT CONNECTED
49 WITH THE USE OF A CHEMICAL WEAPON OR THAT IS NOT DEPENDENT ON THE USE OF
50 THE TOXIC OR POISONOUS PROPERTIES OF THE CHEMICAL WEAPON TO CAUSE DEATH
51 OR OTHER HARM; AND

52 5. ANY LAW ENFORCEMENT PURPOSE, INCLUDING ANY DOMESTIC RIOT CONTROL
53 PURPOSE AND INCLUDING IMPOSITION OF CAPITAL PUNISHMENT.

54 S 2. The penal law is amended by adding a new section 490.27 to read
55 as follows:

56 S 490.27 CRIME OF CYBER-TERRORISM.

1 1. A PERSON IS GUILTY OF THE CRIME OF CYBER-TERRORISM WHEN, WITH THE
2 INTENT TO INTIMIDATE OR COERCE A CIVILIAN POPULATION OR INFLUENCE THE
3 POLICY OF A UNIT OF GOVERNMENT BY INTIMIDATION OR COERCION, HE OR SHE
4 COMMITS A DENIAL OF SERVICE ATTACK AGAINST ANY COMPUTER NETWORK ADMINIS-
5 TERED OR OPERATED BY A LOCAL, STATE OR FEDERAL GOVERNMENT ENTITY, A
6 UTILITY, INCLUDING ELECTRICITY OR WATER, OR A FINANCIAL INSTITUTION.

7 2. FOR THE PURPOSE OF THIS SECTION "DENIAL OF SERVICE ATTACK" MEANS
8 PREVENTING AUTHORIZED ACCESS TO COMPUTER RESOURCES OR DELAYING TIME
9 CRITICAL COMPUTER OPERATIONS BY INUNDATING OR OTHERWISE OVERLOADING A
10 COMPUTER NETWORK, OR ATTEMPTING TO INUNDATE OR OTHERWISE OVERLOAD A
11 COMPUTER SERVICE.

12 CRIME OF CYBER-TERRORISM IS A CLASS D FELONY.

13 S 3. Subdivision 4 of section 156.25 of the penal law, as amended by
14 chapter 89 of the laws of 1993, is amended to read as follows:

15 4. he OR SHE intentionally alters in any manner or destroys computer
16 data or a computer program so as to cause damages, INCLUDING DAMAGE TO
17 ANY COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR DESTRUCTION, in
18 an aggregate amount exceeding one thousand dollars.

19 Computer tampering in the third degree is a class E felony.

20 S 4. Section 156.26 of the penal law, as amended by chapter 590 of the
21 laws of 2008, is amended to read as follows:

22 S 156.26 Computer tampering in the second degree.

23 A person is guilty of computer tampering in the second degree when he
24 or she commits the crime of computer tampering in the fourth degree and
25 he or she intentionally alters in any manner or destroys:

26 1. computer data or a computer program so as to cause damages, INCLUD-
27 ING DAMAGE TO ANY COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR
28 DESTRUCTION, in an aggregate amount exceeding three thousand dollars; or

29 2. computer material that contains records of the medical history or
30 medical treatment of an identified or readily identifiable individual or
31 individuals and as a result of such alteration or destruction, such
32 individual or individuals suffer serious physical injury, and he or she
33 is aware of and consciously disregards a substantial and unjustifiable
34 risk that such serious physical injury may occur.

35 Computer tampering in the second degree is a class D felony.

36 S 5. Section 156.27 of the penal law, as added by chapter 89 of the
37 laws of 1993, is amended to read as follows:

38 S 156.27 Computer tampering in the first degree.

39 A person is guilty of computer tampering in the first degree when he
40 OR SHE commits the crime of computer tampering in the fourth degree and
41 he OR SHE intentionally alters in any manner or destroys computer data
42 or a computer program so as to cause damages, INCLUDING DAMAGE TO ANY
43 COMPUTER OR COMPUTERS AFFECTED BY THE ALTERATION OR DESTRUCTION, in an
44 aggregate amount exceeding fifty thousand dollars.

45 Computer tampering in the first degree is a class C felony.

46 S 6. Section 190.26 of the penal law is amended by adding a new subdi-
47 vision 4 to read as follows:

48 4. WHEN UPON AN AIRCRAFT OR IN AN AIRPORT, PRETENDS TO BE A PILOT OR A
49 MEMBER OF AN AVIATION FLIGHT OR GROUND CREW, OR WEARS, DISPLAYS OR
50 POSSESSES WITHOUT AUTHORITY, ANY UNIFORM, BADGE, INSIGNIA, IDENTIFICA-
51 TION OR FACSIMILE THEREOF BY WHICH SUCH PILOT, FLIGHT OR GROUND CREW
52 MEMBER IS DISTINGUISHED, OR FALSELY EXPRESSES BY HIS OR HER WORDS OR
53 ACTIONS THAT HE OR SHE IS A PILOT OR FLIGHT OR GROUND CREW MEMBER OR IS
54 ACTING WITH THE APPROVAL OR AUTHORITY OF ANY AIRLINE, AIRPORT, TRANSPOR-
55 TATION AUTHORITY OR AVIATION REGULATORY AGENCY.

1 S 7. Paragraph (a) of subdivision 1 of section 460.10 of the penal
2 law, as amended by section 30 of part AAA of chapter 56 of the laws of
3 2009, is amended to read as follows:

4 (a) Any of the felonies set forth in this chapter: sections 120.05,
5 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relat-
6 ing to homicide; sections 130.25, 130.30 and 130.35 relating to rape;
7 sections 135.20 and 135.25 relating to kidnapping; section 135.35 relat-
8 ing to labor trafficking; section 135.65 relating to coercion; sections
9 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10
10 and 145.12 relating to criminal mischief; article one hundred fifty
11 relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating
12 to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to
13 health care fraud; article one hundred sixty relating to robbery;
14 sections 165.45, 165.50, 165.52 and 165.54 relating to criminal
15 possession of stolen property; sections 165.72 and 165.73 relating to
16 trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30,
17 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25,
18 175.35, 175.40 and 210.40 relating to false statements; sections 176.15,
19 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20
20 and 178.25 relating to criminal diversion of prescription medications
21 and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40,
22 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,
23 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections
24 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
25 fraud, sections 190.40 and 190.42 relating to criminal usury; section
26 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relat-
27 ing to hindering prosecution; sections 210.10, 210.15, and 215.51 relat-
28 ing to perjury and contempt; section 215.40 relating to tampering with
29 physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21,
30 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and
31 220.77 relating to controlled substances; sections 225.10 and 225.20
32 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
33 promoting prostitution; section 230.34 relating to sex trafficking;
34 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
35 sections 263.10 and 263.15 relating to promoting a sexual performance by
36 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
37 provisions of section 265.10 which constitute a felony relating to
38 firearms and other dangerous weapons; and sections 265.14 and 265.16
39 relating to criminal sale of a firearm; [and] section 275.10, 275.20,
40 275.30, or 275.40 relating to unauthorized recordings; [and] sections
41 470.05, 470.10, 470.15 and 470.20 relating to money laundering; SECTIONS
42 470.21, 470.22, 470.23 AND 470.24 RELATING TO MONEY LAUNDERING IN
43 SUPPORT OF TERRORISM; SECTIONS 470.30 AND 470.35 RELATING TO STRUCTUR-
44 ING; AND ARTICLE FOUR HUNDRED NINETY RELATING TO TERRORISM; or

45 S 8. Subdivision 1 of section 470.25 of the penal law, as amended by
46 chapter 489 of the laws of 2000, is amended to read as follows:

47 1. Any person convicted of a violation of section 470.05, 470.10,
48 470.15, [or] 470.20, 470.21, 470.22, 470.23 OR 470.24 of this article
49 may be sentenced to pay a fine not in excess of two times the value of
50 the monetary instruments which are the proceeds of specified criminal
51 activity. When a fine is imposed pursuant to this subdivision, the court
52 shall make a finding as to the value of such monetary instrument or
53 instruments. If the record does not contain sufficient evidence to
54 support such a finding the court may conduct a hearing upon the issue.
55 In imposing a fine, the court shall consider the seriousness of the
56 conduct, whether the amount of the fine is disproportionate to the

conduct in which he engaged, its impact on victims, as well as the economic circumstances of the convicted person, including the effect of the imposition of such a fine upon his immediate family.

S 9. Section 470.00 of the penal law is amended by adding a new subdivision 11 to read as follows:

11. "STRUCTURING" MEANS, FOR PURPOSES OF SECTIONS 470.30 AND 470.35 OF THIS ARTICLE, A PERSON STRUCTURES A TRANSACTION IF THAT PERSON, ACTING ALONE, OR IN CONJUNCTION WITH, OR ON BEHALF OF, OTHER PERSONS, CONDUCTS OR ATTEMPTS TO CONDUCT ONE OR MORE TRANSACTIONS IN CURRENCY, IN ANY AMOUNT, WITH ONE OR MORE FINANCIAL INSTITUTIONS, OR WITH ONE OR MORE TRADES OR BUSINESSES, ON ONE OR MORE DAYS, IN ANY MANNER, IN SUCH A WAY AS TO EVADE THE REPORTING REQUIREMENTS UNDER TITLE 31 OF THE UNITED STATES CODE. "IN ANY MANNER" INCLUDES, BUT IS NOT LIMITED TO, THE BREAKING DOWN OF A SINGLE SUM OF CURRENCY EXCEEDING TEN THOUSAND DOLLARS INTO SMALLER SUMS, INCLUDING SUMS AT OR BELOW TEN THOUSAND DOLLARS, OR THE CONDUCT OF A TRANSACTION, OR SERIES OF CURRENCY TRANSACTIONS, INCLUDING TRANSACTIONS AT OR BELOW TEN THOUSAND DOLLARS. THE TRANSACTION OR TRANSACTIONS NEED NOT EXCEED THE TEN THOUSAND DOLLAR REPORTING THRESHOLD AT ANY SINGLE FINANCIAL INSTITUTION OR AT ANY SINGLE TRADE OR BUSINESS, ON ANY SINGLE DAY IN ORDER TO CONSTITUTE STRUCTURING WITHIN THE MEANING OF THIS DEFINITION.

S 10. The penal law is amended by adding two new sections 470.30 and 470.35 to read as follows:

S 470.30 STRUCTURING IN THE SECOND DEGREE.

A PERSON IS GUILTY OF STRUCTURING IN THE SECOND DEGREE WHEN HE OR SHE:

1. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION NOT TO FILE A WRITTEN REPORT PURSUANT TO SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES CODE OR ANY REGULATION PRESCRIBED THEREUNDER; OR

2. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION TO FILE A WRITTEN REPORT REQUIRED BY SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES CODE OR ANY REGULATION PRESCRIBED THEREUNDER THAT CONTAINS A MATERIAL OMISSION OR MISSTATEMENT OF FACT; OR

3. STRUCTURES OR ASSISTS IN STRUCTURING, OR ATTEMPTS TO STRUCTURE OR ASSIST IN STRUCTURING, ANY TRANSACTION FOR THE PURPOSE OF EVADING A REPORTING REQUIREMENT OF SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES CODE OR ANY REGULATION PRESCRIBED THEREUNDER.

STRUCTURING IN THE SECOND DEGREE IS A CLASS E FELONY.

S 470.35 STRUCTURING IN THE FIRST DEGREE.

A PERSON IS GUILTY OF STRUCTURING IN THE FIRST DEGREE WHEN HE OR SHE COMMITS THE CRIME OF STRUCTURING IN THE SECOND DEGREE:

1. WITH INTENT TO PROMOTE THE CARRYING ON OF CRIMINAL CONDUCT; OR

2. AS PART OF A PATTERN OF ANY ILLEGAL ACTIVITY INVOLVING MORE THAN ONE HUNDRED THOUSAND DOLLARS IN ANY TWELVE MONTH PERIOD.

STRUCTURING IN THE FIRST DEGREE IS A CLASS D FELONY.

S 11. The first undesignated paragraph of section 490.10 of the penal law, as added by chapter 300 of the laws of 2001, is amended to read as follows:

A person commits soliciting or providing support for an act of terrorism in the second degree when, with intent that material support or resources will be used, in whole or in part, to plan, prepare, carry out or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism, he or she (A) raises, solicits, collects or provides material support or resources, OR (B) CONCEALS OR DISGUISES THE NATURE OR OWNERSHIP OF MATERIAL SUPPORT OR RESOURCES.

S 12. The penal law is amended by adding two new sections 490.60 and 490.65 to read as follows:

1 S 490.60 CRIMINAL FACILITATION OF TERRORISM.

2 1. A PERSON IS GUILTY OF CRIMINAL FACILITATION OF TERRORISM WHEN,
3 BELIEVING IT PROBABLE THAT HE OR SHE IS RENDERING AID TO A PERSON WHO
4 INTENDS TO COMMIT AN OFFENSE DEFINED IN THIS ARTICLE, HE OR SHE ENGAGES
5 IN CONDUCT WHICH PROVIDES SUCH PERSON WITH MEANS OR OPPORTUNITY FOR THE
6 COMMISSION THEREOF AND WHICH IN FACT AIDS SUCH PERSON TO COMMIT SUCH
7 OFFENSE.

8 2. (A) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERROR-
9 ISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS A
10 VIOLENT FELONY OFFENSE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM
11 SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

12 (B) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
13 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN
14 OFFENSE DEFINED IN THIS ARTICLE OR AN ATTEMPT OR CONSPIRACY TO COMMIT
15 SUCH OFFENSE, OTHER THAN THE CRIME OF TERRORISM AS DEFINED IN SECTION
16 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM
17 SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE DEFENDANT
18 FACILITATED; PROVIDED, FURTHER, THAT WHEN A PERSON IS CONVICTED OF CRIM-
19 INAL FACILITATION OF TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE
20 HE OR SHE FACILITATED IS A CLASS A-I FELONY OFFENSE, THE CRIME OF CRIMI-
21 NAL FACILITATION OF TERRORISM SHALL BE PUNISHED AS A CLASS B VIOLENT
22 FELONY OFFENSE.

23 (C) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
24 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS THE
25 CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE
26 CRIME OF CRIMINAL FACILITATION OF TERRORISM SHALL BE DEEMED TO BE THE
27 SAME CATEGORY AS THE OFFENSE LEVEL APPLICABLE TO THE SPECIFIED OFFENSE
28 UNDERLYING THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS
29 ARTICLE.

30 (D) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
31 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN
32 ATTEMPT OR CONSPIRACY TO COMMIT THE CRIME OF TERRORISM AS DEFINED IN
33 SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF
34 TERRORISM SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE
35 DEFENDANT FACILITATED.

36 S 490.65 CONSPIRACY TO COMMIT TERRORISM.

37 1. A PERSON IS GUILTY OF CONSPIRACY TO COMMIT TERRORISM WHEN, WITH
38 INTENT THAT CONDUCT BE PERFORMED CONSTITUTING A FELONY OFFENSE DEFINED
39 IN THIS ARTICLE, HE OR SHE AGREES WITH ONE OR MORE PERSONS TO ENGAGE IN
40 OR CAUSE THE PERFORMANCE OF SUCH CONDUCT.

41 2. (A) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
42 TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE CONSPIRED
43 TO COMMIT IS A VIOLENT FELONY OFFENSE, THE CRIME OF CONSPIRACY TO COMMIT
44 TERRORISM SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

45 (B) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
46 TERRORISM PURSUANT TO THIS SECTION, OTHER THAN THE CRIME OF TERRORISM AS
47 DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO
48 COMMIT TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE
49 LEVEL APPLICABLE TO THE UNDERLYING ARTICLE FOUR HUNDRED NINETY OFFENSE.

50 (C) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
51 TERRORISM PURSUANT TO THIS SECTION FOR THE CRIME OF TERRORISM AS DEFINED
52 IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO COMMIT
53 TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE LEVEL
54 APPLICABLE TO A CONVICTION FOR THE CRIME OF TERRORISM AS DEFINED IN
55 SECTION 490.25 OF THIS ARTICLE THAT THE DEFENDANT CONSPIRED TO COMMIT.

1 S 13. Section 490.70 of the penal law is amended by adding two new
2 subdivisions 3 and 4 to read as follows:

3 3. WITH RESPECT TO SECTION 490.60 OF THIS ARTICLE, THE PROVISIONS OF
4 SECTION 115.10 OF THIS CHAPTER SHALL APPLY.

5 4. WITH RESPECT TO SECTION 490.65 OF THIS ARTICLE, THE PROVISIONS OF
6 SECTIONS 105.20, 105.25 AND 105.30 OF THIS CHAPTER SHALL APPLY.

7 S 14. Paragraph (b) of subdivision 2 of section 490.25 of the penal
8 law, as added by chapter 300 of the laws of 2001, is amended to read as
9 follows:

10 (b) When a person is convicted of a crime of terrorism pursuant to
11 this section, and the specified offense is a class C, D or E felony
12 offense, the crime of terrorism shall be deemed to be one category high-
13 er than the specified offense the defendant committed, or one category
14 higher than the offense level applicable to the defendant's conviction
15 for an attempt [or conspiracy] to commit the offense, whichever is
16 applicable.

17 S 15. Paragraph (a) of subdivision 3 of section 490.05 of the penal
18 law, as amended by section 7 of part A of chapter 1 of the laws of 2004,
19 is amended to read as follows:

20 (a) "Specified offense" for purposes of this article means a class A
21 felony offense other than an offense as defined in article two hundred
22 twenty, a violent felony offense as defined in section 70.02,
23 manslaughter in the second degree as defined in section 125.15, criminal
24 tampering in the first degree as defined in section 145.20, COMPUTER
25 TAMPERING IN THE THIRD DEGREE AS DEFINED IN SECTION 156.25, COMPUTER
26 TAMPERING IN THE SECOND DEGREE AS DEFINED IN SECTION 156.26, COMPUTER
27 TAMPERING IN THE FIRST DEGREE AS DEFINED IN SECTION 156.27, identity
28 theft in the second degree as defined in section 190.79, identity theft
29 in the first degree as defined in section 190.80, unlawful possession of
30 personal identification information in the second degree as defined in
31 section 190.82, unlawful possession of personal identification informa-
32 tion in the first degree as defined in section 190.83, AGRICULTURAL
33 ADULTERATION IN THE SECOND DEGREE AS DEFINED IN SECTION 280.05, AGRICUL-
34 TURAL ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10,
35 money laundering in support of terrorism in the fourth degree as defined
36 in section 470.21, money laundering in support of terrorism in the third
37 degree as defined in section 470.22, money laundering in support of
38 terrorism in the second degree as defined in section 470.23, money laun-
39 dering in support of terrorism in the first degree as defined in section
40 470.24 of this chapter, and includes an attempt [or conspiracy] to
41 commit any such offense.

42 S 16. Section 20.20 of the criminal procedure law is amended by adding
43 a new subdivision 4 to read as follows:

44 4. THE OFFENSE WAS COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION
45 OF THE STATE PURSUANT TO SECTION 20.25.

46 S 17. The criminal procedure law is amended by adding a new section
47 20.25 to read as follows:

48 S 20.25 GEOGRAPHICAL JURISDICTION OF OFFENSES; SPECIAL AIRCRAFT JURIS-
49 DICTION OF THE STATE.

50 1. AS USED IN THIS SECTION:

51 (A) "AIRCRAFT" MEANS AN AIRCRAFT OPERATING AS A COMMON CARRIER.

52 (B) "IN FLIGHT" MEANS FROM THE MOMENT ALL EXTERNAL DOORS OF AN
53 AIRCRAFT ARE CLOSED FOLLOWING BOARDING,

54 (I) THROUGH THE MOMENT WHEN ONE EXTERNAL DOOR IS OPENED TO ALLOW
55 PASSENGERS TO LEAVE THE AIRCRAFT, OR

(II) UNTIL, IF A FORCED LANDING, COMPETENT AUTHORITIES TAKE OVER RESPONSIBILITY FOR THE AIRCRAFT AND ANY INDIVIDUALS AND PROPERTY ON THE AIRCRAFT.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 20.30, A PERSON MAY BE CONVICTED IN THE CRIMINAL COURTS OF THIS STATE OF AN OFFENSE COMMITTED EITHER BY HIS OWN CONDUCT, OR BY THE CONDUCT OF ANOTHER FOR WHICH HE IS LEGALLY ACCOUNTABLE PURSUANT TO SECTION 20.00 OF THE PENAL LAW, WHEN:

(A) THE OFFENSE IS COMMITTED ON BOARD AN AIRCRAFT WHILE IN FLIGHT OUTSIDE THIS STATE; AND

(B) THE AIRCRAFT HAS ITS NEXT SCHEDULED DESTINATION WITHIN THIS STATE AND IN FACT NEXT LANDS IN THIS STATE; AND

(C) THE PERSON WHO COMMITTED THE OFFENSE IS STILL ON BOARD THE AIRCRAFT WHEN IT LANDS IN THIS STATE.

3. EXCEPT AS LIMITED BY SUBDIVISION TWO OF THIS SECTION, THE SPECIAL AIRCRAFT JURISDICTION OF THIS STATE SHALL EXTEND TO AIRCRAFT IN FLIGHT TO THE SAME EXTENT SUCH JURISDICTION MAY BE CLAIMED BY THE UNITED STATES OF AMERICA, OR TO WHATEVER EXTENT MAY BE RECOGNIZED BY THE USAGES AND CUSTOMS OF INTERNATIONAL LAW OR BY ANY AGREEMENT, INTERNATIONAL OR OTHERWISE, TO WHICH THE UNITED STATES OF AMERICA OR THIS STATE MAY BE PARTY.

4. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN ANY WAY (A) THE JURISDICTION OF THIS STATE OVER ANY PERSON OR WITH RESPECT TO ANY SUBJECT WITHIN OR WITHOUT THE STATE WHICH JURISDICTION IS EXERCISABLE BY REASON OF CITIZENSHIP, RESIDENCE OR FOR ANY OTHER REASON RECOGNIZED BY LAW; (B) JURISDICTION OR OWNERSHIP OF OR OVER THE AIRSPACE OR LANDS THEREUNDER, WITHIN OR FORMING A PART OF THE BOUNDARIES OF THIS STATE; OR (C) THE CONCURRENT JURISDICTION OF THE UNITED STATES OF AMERICA OVER ANY OFFENSE COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES AS DEFINED IN TITLE 49 OF THE UNITED STATES CODE.

S 18. Subdivision 1 of section 60.22 of the criminal procedure law is amended to read as follows:

1. A defendant may not be convicted of any offense, OTHER THAN AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW EXCEPT WHEN PROSECUTED PURSUANT TO SUBPARAGRAPH (XIII) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 125.27 OF THE PENAL LAW, upon the testimony of an accomplice unsupported by corroborative evidence tending to connect the defendant with the commission of such offense.

S 19. Section 690.05 of the criminal procedure law, subdivision 2 as amended by chapter 504 of the laws of 1991 and the opening paragraph of subdivision 2 as amended by chapter 424 of the laws of 1998, is amended to read as follows:

S 690.05 Search warrants; in general; definition.

1. Under circumstances prescribed in this article, a local criminal court may, upon application of a police officer, a district attorney or other public servant acting in the course of his official duties, issue a search warrant.

2. [A] EXCEPT AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION, A search warrant is a court order and process directing a police officer to conduct:

(a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or

(b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of: (i) a warrant of arrest

1 issued pursuant to this chapter, a superior court warrant of arrest
2 issued pursuant to this chapter, or a bench warrant for a felony issued
3 pursuant to this chapter, where the designated premises is the dwelling
4 of a third party who is not the subject of the arrest warrant; or

5 (ii) a warrant of arrest issued by any other state or federal court
6 for an offense which would constitute a felony under the laws of this
7 state, where the designated premises is the dwelling of a third party
8 who is not the subject of the arrest warrant.

9 3. WHERE A SEARCH IS TO BE CONDUCTED OF AN ELECTRONIC COMMUNICATION
10 SERVICE OR REMOTE COMPUTING SERVICE, A SEARCH WARRANT IS A COURT ORDER
11 DIRECTING AN EMPLOYEE OF THE ELECTRONIC COMMUNICATION SERVICE OR REMOTE
12 COMPUTING SERVICE TO SEARCH THEIR RECORDS FOR THE DESIGNATED PROPERTY. A
13 SEARCH WARRANT IS PROPERLY SERVED ON AN ELECTRONIC COMMUNICATION SERVICE
14 OR REMOTE COMPUTING SERVICE WHEN IT HAS BEEN DELIVERED BY HAND, OR IN A
15 MANNER REASONABLY ALLOWING FOR PROOF OF DELIVERY IF DELIVERED BY UNITED
16 STATES MAIL, OVERNIGHT DELIVERY SERVICE, OR FACSIMILE TO THE ELECTRONIC
17 COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE THAT IS THE SUBJECT OF
18 THE WARRANT.

19 4. "ELECTRONIC COMMUNICATION SERVICE", "REMOTE COMPUTING SERVICE" AND
20 "ELECTRONIC STORAGE" SHALL BE CONSTRUED IN ACCORDANCE WITH SECTIONS 2510
21 AND 2701 TO 2711 OF TITLE 18 OF THE UNITED STATES CODE, AS AMENDED
22 THROUGH MARCH 1, 2001. THIS SECTION DOES NOT APPLY TO BUSINESSES THAT DO
23 NOT PROVIDE THOSE SERVICES TO THE GENERAL PUBLIC.

24 S 20. The criminal procedure law is amended by adding a new section
25 690.16 to read as follows:

26 S 690.16 SEARCH WARRANT OF A FOREIGN ELECTRONIC COMMUNICATION SERVICE OR
27 A FOREIGN REMOTE COMPUTING SERVICE.

28 UPON A SHOWING OF REASONABLE CAUSE, A COURT SHALL ISSUE A SEARCH
29 WARRANT DIRECTING THAT A FOREIGN ELECTRONIC COMMUNICATION SERVICE
30 PROVIDING SERVICES TO THE GENERAL PUBLIC OR REMOTE COMPUTING SERVICE
31 PROVIDING SERVICES TO THE GENERAL PUBLIC PRODUCE CERTAIN RECORDS,
32 INCLUDING THOSE THAT WOULD REVEAL THE RECIPIENT OR DESTINATION OF COMMU-
33 NICATIONS SENT TO OR FROM CUSTOMERS OF THOSE SERVICES AND THE CONTENT OF
34 THOSE COMMUNICATIONS HELD IN ELECTRONIC STORAGE SO LONG AS;

35 1. THE RECORDS CONSTITUTE EVIDENCE OR TEND TO DEMONSTRATE THAT AN
36 OFFENSE WAS COMMITTED AGAINST THE LAWS OF THE STATE; AND

37 2. THE LAWS OF THE FOREIGN STATE RECOGNIZE THE ISSUANCE OF SUCH
38 WARRANT AND AUTHORIZE THE FOREIGN ELECTRONIC COMMUNICATION SERVICE OR
39 FOREIGN REMOTE COMPUTING SERVICE TO COMPLY WITH IT.

40 S 21. The criminal procedure law is amended by adding a new section
41 690.17 to read as follows:

42 S 690.17 WARRANT OF ANOTHER STATE.

43 A NEW YORK BUSINESS THAT PROVIDES ELECTRONIC COMMUNICATION SERVICES OR
44 REMOTE COMPUTING SERVICES TO THE GENERAL PUBLIC, WHEN SERVED WITH A
45 WARRANT ISSUED BY ANOTHER STATE TO PRODUCE RECORDS THAT WOULD REVEAL THE
46 IDENTITY OF THE CUSTOMERS USING THOSE SERVICES; DATA STORED BY, OR ON
47 BEHALF OF, THE CUSTOMER; THE CUSTOMER'S USAGE OF THOSE SERVICES; THE
48 RECIPIENT OR DESTINATION OF COMMUNICATIONS SENT TO OR FROM THOSE CUSTOM-
49 ERS; OR THE CONTENT OF THOSE COMMUNICATIONS, SHALL PRODUCE THOSE RECORDS
50 AS IF THAT WARRANT HAD BEEN ISSUED BY A NEW YORK COURT.

51 S 22. The criminal procedure law is amended by adding a new section
52 690.18 to read as follows:

53 S 690.18 LIABILITY OF PROVIDERS.

54 NO CAUSE OF ACTION SHALL LIE AGAINST ANY FOREIGN OR NEW YORK ELECTRON-
55 IC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE SUBJECT TO THIS
56 SECTION, ITS OFFICERS, EMPLOYEES, AGENTS, OR OTHER SPECIFIED PERSONS FOR

1 PROVIDING RECORDS, INFORMATION, FACILITIES OR ASSISTANCE IN ACCORDANCE
2 WITH THE TERMS OF A WARRANT ISSUED PURSUANT TO THIS CHAPTER.

3 S 23. Subdivision 4 of section 700.05 of the criminal procedure law,
4 as amended by chapter 744 of the laws of 1988, is amended to read as
5 follows:

6 4. "Justice," except as otherwise provided herein, means any justice
7 of an appellate division of the judicial department in which the eaves-
8 dropping warrant is to be executed, or any justice of the supreme court
9 of the judicial district in which the eavesdropping warrant is to be
10 executed, or any county court judge of the county in which the eaves-
11 dropping warrant is to be executed. When the eavesdropping warrant is to
12 authorize the interception of oral communications occurring in a vehicle
13 or wire communications occurring over a WIRELESS telephone [located in a
14 vehicle], "justice" means any justice of the supreme court of the judi-
15 cial department or any county court judge of the county in which the
16 eavesdropping device is to be installed or connected or of any judicial
17 department or county in which communications are expected to be inter-
18 cepted. When such a justice issues such an eavesdropping warrant, such
19 warrant may be executed and such oral or wire communications may be
20 intercepted anywhere in the state.

21 S 24. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
22 procedure law, as amended by chapter 472 of the laws of 2008, is amended
23 to read as follows:

24 (b) Any of the following felonies: assault in the second degree as
25 defined in section 120.05 of the penal law, assault in the first degree
26 as defined in section 120.10 of the penal law, reckless endangerment in
27 the first degree as defined in section 120.25 of the penal law, promot-
28 ing a suicide attempt as defined in section 120.30 of the penal law,
29 criminally negligent homicide as defined in section 125.10 of the penal
30 law, manslaughter in the second degree as defined in section 125.15 of
31 the penal law, manslaughter in the first degree as defined in section
32 125.20 of the penal law, murder in the second degree as defined in
33 section 125.25 of the penal law, murder in the first degree as defined
34 in section 125.27 of the penal law, abortion in the second degree as
35 defined in section 125.40 of the penal law, abortion in the first degree
36 as defined in section 125.45 of the penal law, rape in the third degree
37 as defined in section 130.25 of the penal law, rape in the second degree
38 as defined in section 130.30 of the penal law, rape in the first degree
39 as defined in section 130.35 of the penal law, criminal sexual act in
40 the third degree as defined in section 130.40 of the penal law, criminal
41 sexual act in the second degree as defined in section 130.45 of the
42 penal law, criminal sexual act in the first degree as defined in section
43 130.50 of the penal law, sexual abuse in the first degree as defined in
44 section 130.65 of the penal law, unlawful imprisonment in the first
45 degree as defined in section 135.10 of the penal law, kidnapping in the
46 second degree as defined in section 135.20 of the penal law, kidnapping
47 in the first degree as defined in section 135.25 of the penal law, labor
48 trafficking as defined in section 135.35 of the penal law, custodial
49 interference in the first degree as defined in section 135.50 of the
50 penal law, coercion in the first degree as defined in section 135.65 of
51 the penal law, criminal trespass in the first degree as defined in
52 section 140.17 of the penal law, burglary in the third degree as defined
53 in section 140.20 of the penal law, burglary in the second degree as
54 defined in section 140.25 of the penal law, burglary in the first degree
55 as defined in section 140.30 of the penal law, criminal mischief in the
56 third degree as defined in section 145.05 of the penal law, criminal

1 mischief in the second degree as defined in section 145.10 of the penal
2 law, criminal mischief in the first degree as defined in section 145.12
3 of the penal law, criminal tampering in the first degree as defined in
4 section 145.20 of the penal law, arson in the fourth degree as defined
5 in section 150.05 of the penal law, arson in the third degree as defined
6 in section 150.10 of the penal law, arson in the second degree as
7 defined in section 150.15 of the penal law, arson in the first degree as
8 defined in section 150.20 of the penal law, grand larceny in the fourth
9 degree as defined in section 155.30 of the penal law, grand larceny in
10 the third degree as defined in section 155.35 of the penal law, grand
11 larceny in the second degree as defined in section 155.40 of the penal
12 law, grand larceny in the first degree as defined in section 155.42 of
13 the penal law, COMPUTER TAMPERING IN THE THIRD DEGREE AS DEFINED IN
14 SECTION 156.25 OF THE PENAL LAW, COMPUTER TAMPERING IN THE SECOND DEGREE
15 AS DEFINED IN SECTION 156.26 OF THE PENAL LAW, COMPUTER TAMPERING IN THE
16 FIRST DEGREE AS DEFINED IN SECTION 156.27 OF THE PENAL LAW, health care
17 fraud in the fourth degree as defined in section 177.10 of the penal
18 law, health care fraud in the third degree as defined in section 177.15
19 of the penal law, health care fraud in the second degree as defined in
20 section 177.20 of the penal law, health care fraud in the first degree
21 as defined in section 177.25 of the penal law, robbery in the third
22 degree as defined in section 160.05 of the penal law, robbery in the
23 second degree as defined in section 160.10 of the penal law, robbery in
24 the first degree as defined in section 160.15 of the penal law, unlawful
25 use of secret scientific material as defined in section 165.07 of the
26 penal law, criminal possession of stolen property in the fourth degree
27 as defined in section 165.45 of the penal law, criminal possession of
28 stolen property in the third degree as defined in section 165.50 of the
29 penal law, criminal possession of stolen property in the second degree
30 as defined by section 165.52 of the penal law, criminal possession of
31 stolen property in the first degree as defined by section 165.54 of the
32 penal law, trademark counterfeiting in the second degree as defined in
33 section 165.72 of the penal law, trademark counterfeiting in the first
34 degree as defined in section 165.73 of the penal law, forgery in the
35 second degree as defined in section 170.10 of the penal law, forgery in
36 the first degree as defined in section 170.15 of the penal law, criminal
37 possession of a forged instrument in the second degree as defined in
38 section 170.25 of the penal law, criminal possession of a forged instru-
39 ment in the first degree as defined in section 170.30 of the penal law,
40 criminal possession of forgery devices as defined in section 170.40 of
41 the penal law, falsifying business records in the first degree as
42 defined in section 175.10 of the penal law, tampering with public
43 records in the first degree as defined in section 175.25 of the penal
44 law, offering a false instrument for filing in the first degree as
45 defined in section 175.35 of the penal law, issuing a false certificate
46 as defined in section 175.40 of the penal law, criminal diversion of
47 prescription medications and prescriptions in the second degree as
48 defined in section 178.20 of the penal law, criminal diversion of
49 prescription medications and prescriptions in the first degree as
50 defined in section 178.25 of the penal law, residential mortgage fraud
51 in the fourth degree as defined in section 187.10 of the penal law,
52 residential mortgage fraud in the third degree as defined in section
53 187.15 of the penal law, residential mortgage fraud in the second degree
54 as defined in section 187.20 of the penal law, residential mortgage
55 fraud in the first degree as defined in section 187.25 of the penal law,
56 escape in the second degree as defined in section 205.10 of the penal

1 law, escape in the first degree as defined in section 205.15 of the
2 penal law, absconding from temporary release in the first degree as
3 defined in section 205.17 of the penal law, promoting prison contraband
4 in the first degree as defined in section 205.25 of the penal law,
5 hindering prosecution in the second degree as defined in section 205.60
6 of the penal law, hindering prosecution in the first degree as defined
7 in section 205.65 of the penal law, sex trafficking as defined in
8 section 230.34 of the penal law, criminal possession of a weapon in the
9 third degree as defined in subdivisions two, three and five of section
10 265.02 of the penal law, criminal possession of a weapon in the second
11 degree as defined in section 265.03 of the penal law, criminal
12 possession of a weapon in the first degree as defined in section 265.04
13 of the penal law, manufacture, transport, disposition and defacement of
14 weapons and dangerous instruments and appliances defined as felonies in
15 subdivisions one, two, and three of section 265.10 of the penal law,
16 sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use
17 of weapons as defined in subdivision two of section 265.35 of the penal
18 law, relating to firearms and other dangerous weapons, [or] failure to
19 disclose the origin of a recording in the first degree as defined in
20 section 275.40 of the penal law, AGRICULTURAL ADULTERATION IN THE SECOND
21 DEGREE AS DEFINED IN SECTION 280.05 OF THE PENAL LAW, OR AGRICULTURAL
22 ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10 OF THE
23 PENAL LAW;

24 S 25. Paragraph (o) of subdivision 8 of section 700.05 of the criminal
25 procedure law, as amended by chapter 489 of the laws of 2000, is amended
26 to read as follows:

27 (o) Money laundering in the first degree, as defined in section 470.20
28 of the penal law, money laundering in the second degree as defined in
29 section 470.15 of the penal law, money laundering in the third degree as
30 defined in section 470.10 of such law, [and] money laundering in the
31 fourth degree as defined in section 470.05 of such law, MONEY LAUNDERING
32 IN SUPPORT OF TERRORISM IN THE FOURTH DEGREE AS DEFINED IN SECTION
33 470.21 OF SUCH LAW, MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE
34 THIRD DEGREE AS DEFINED IN SECTION 470.22 OF SUCH LAW, MONEY LAUNDERING
35 IN SUPPORT OF TERRORISM IN THE SECOND DEGREE AS DEFINED IN SECTION
36 470.23 OF SUCH LAW, AND MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE
37 FIRST DEGREE AS DEFINED IN SECTION 470.24 OF SUCH LAW, where the proper-
38 ty involved represents or is represented to be the proceeds of specified
39 criminal conduct which itself constitutes a designated offense within
40 the meaning of this subdivision, OR THE PROCEEDS OF AN ACT OF TERRORISM
41 AS DEFINED IN SUBDIVISION ONE OF SECTION 490.05 OF SUCH LAW, OR A MONE-
42 TARY INSTRUMENT GIVEN, RECEIVED OR INTENDED TO BE USED TO SUPPORT A
43 VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF SUCH LAW.

44 S 26. Paragraph (q) of subdivision 8 of section 700.05 of the criminal
45 procedure law, as amended by section 3 of part A of chapter 1 of the
46 laws of 2004, is amended to read as follows:

47 (q) Soliciting or providing support for an act of terrorism in the
48 second degree as defined in section 490.10 of the penal law, soliciting
49 or providing support for an act of terrorism in the first degree as
50 defined in section 490.15 of the penal law, making a terroristic threat
51 as defined in section 490.20 of the penal law, crime of terrorism as
52 defined in section 490.25 of the penal law, CRIME OF CYBER-TERRORISM AS
53 DEFINED IN SECTION 490.27 OF THE PENAL LAW, hindering prosecution of
54 terrorism in the second degree as defined in section 490.30 of the penal
55 law, hindering prosecution of terrorism in the first degree as defined
56 in section 490.35 of the penal law, criminal possession of a chemical

1 weapon or biological weapon in the third degree as defined in section
2 490.37 of the penal law, criminal possession of a chemical weapon or
3 biological weapon in the second degree as defined in section 490.40 of
4 the penal law, criminal possession of a chemical weapon or biological
5 weapon in the first degree as defined in section 490.45 of the penal
6 law, criminal use of a chemical weapon or biological weapon in the third
7 degree as defined in section 490.47 of the penal law, criminal use of a
8 chemical weapon or biological weapon in the second degree as defined in
9 section 490.50 of the penal law, and criminal use of a chemical weapon
10 or biological weapon in the first degree as defined in section 490.55 of
11 the penal law.

12 S 27. Subdivision 2 of section 40.30 of the criminal procedure law is
13 amended by adding a new paragraph (c) to read as follows:

14 (C) SUCH PROSECUTION OCCURRED IN A COURT OF ANY JURISDICTION WITHIN
15 THE UNITED STATES OTHER THAN A COURT OF THIS STATE, AND THE PRESENT
16 PROSECUTION IS FOR AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF
17 THE PENAL LAW.

18 S 28. Subdivision 9 of section 40.50 of the criminal procedure law, as
19 added by chapter 516 of the laws of 1986, is amended to read as follows:

20 9. A person who has been previously prosecuted for racketeering pursu-
21 ant to federal law, or any comparable offense pursuant to the law of
22 another state may not be subsequently prosecuted for enterprise
23 corruption based upon a pattern of criminal activity that specifically
24 includes a criminal act that was also specifically included in the
25 pattern of racketeering activity upon which the prior charge of racke-
26 teering was based; provided, however, that this section shall not be
27 construed to prohibit the subsequent prosecution of any other offense
28 specifically included in or otherwise a part of a pattern of racketeer-
29 ing activity alleged in any such prior prosecution for racketeering or
30 other comparable offense, AND SHALL NOT PROHIBIT THE SUBSEQUENT PROSE-
31 CUTION OF ANY OFFENSE UNDER ARTICLE FOUR HUNDRED NINETY OF THE PENAL
32 LAW.

33 S 29. Section 210.40 of the criminal procedure law is amended by
34 adding a new subdivision 2-a to read as follows:

35 2-A. IN ADDITION TO THE GROUNDS SPECIFIED IN SUBDIVISION ONE OF THIS
36 SECTION, UPON ANY MOTION TO DISMISS AN INDICTMENT OR ANY COUNT THEREOF
37 ALLEGING A VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW,
38 THE COURT MUST ALSO CONSIDER WHETHER THE DEFENDANT PREVIOUSLY HAS BEEN
39 PROSECUTED IN A COURT OF ANY OTHER JURISDICTION WITHIN THE UNITED STATES
40 BASED UPON THE SAME ACT OR CRIMINAL TRANSACTION.

41 S 30. Section 710.70 of the criminal procedure law is amended by
42 adding a new subdivision 4 to read as follows:

43 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN A CRIMINAL ACTION IN
44 WHICH THE DEFENDANT IS ACCUSED OF AN OFFENSE DEFINED IN ARTICLE FOUR
45 HUNDRED NINETY OF THE PENAL LAW, THE COURT MAY NOT SUPPRESS EVIDENCE OR
46 ORDER THAT EVIDENCE BE EXCLUDED ON ACCOUNT OF A VIOLATION OF ANY RIGHT
47 ACCORDED BY THE FOURTH AMENDMENT TO THE CONSTITUTION OF THE UNITED
48 STATES OR SECTION TWELVE OF ARTICLE ONE OF THE CONSTITUTION OF THIS
49 STATE, IF THE COURT FINDS AFTER A HEARING THAT THE LAW ENFORCEMENT OFFI-
50 CER OR OFFICERS ACTED IN GOOD FAITH.

51 S 31. The criminal procedure law is amended by adding a new section
52 700.75 to read as follows:

53 S 700.75 ROVING INTERCEPTIONS.

54 IN ANY CASE IN WHICH THE DESIGNATED OFFENSE IS DEFINED IN PARAGRAPH
55 (Q) OF SUBDIVISION EIGHT OF SECTION 700.05 OF THIS ARTICLE, THE REQUIRE-
56 MENTS OF THIS ARTICLE RELATING TO THE SPECIFICATION OF THE FACILITIES

1 FROM WHICH, OR THE PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED
2 DO NOT APPLY IF:

3 1. IN THE CASE OF AN APPLICATION FOR THE INTERCEPTION OF AN ORAL
4 COMMUNICATION:

5 (A) THE APPLICATION CONTAINS A FULL AND COMPLETE STATEMENT AS TO WHY
6 SUCH SPECIFICATION IS NOT PRACTICAL AND IDENTIFIES THE PERSON COMMITTING
7 THE OFFENSE WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED; AND (B) THE
8 COURT FINDS THAT SUCH SPECIFICATION IS NOT PRACTICAL; OR

9 2. IN THE CASE OF AN APPLICATION WITH RESPECT TO INTERCEPTION OF A
10 WIRE OR ELECTRONIC COMMUNICATION:

11 (A) THE APPLICATION IDENTIFIES THE PERSON BELIEVED TO BE COMMITTING
12 THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED AND THE
13 APPLICANT MAKES A SHOWING OF A PURPOSE, ON THE PART OF THAT PERSON, TO
14 THWART INTERCEPTION BY CHANGING FACILITIES; AND (B) THE COURT FINDS THAT
15 SUCH PURPOSE HAS BEEN ADEQUATELY SHOWN.

16 3. INTERCEPTION OF COMMUNICATIONS UNDER AN ORDER ISSUED PURSUANT TO
17 THIS SECTION SHALL NOT BEGIN UNTIL THE FACILITIES FROM WHICH, OR THE
18 PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED IS ASCERTAINED BY
19 THE PERSON IMPLEMENTING THE INTERCEPTION ORDER. A PROVIDER OF WIRE OR
20 ELECTRONIC COMMUNICATIONS SERVICE THAT HAS RECEIVED AN ORDER AS PROVIDED
21 FOR IN SUBDIVISION TWO OF THIS SECTION MAY MOVE THE COURT TO MODIFY OR
22 QUASH THE ORDER ON THE GROUNDS THAT ITS ASSISTANCE WITH RESPECT TO THE
23 INTERCEPTION CANNOT BE PERFORMED IN A TIMELY OR REASONABLE FASHION. THE
24 COURT, UPON NOTICE TO THE APPLICANT, SHALL DECIDE SUCH MOTION EXPE-
25 DITIOUSLY.

26 S 32. Subdivision 6 of section 1310 of the civil practice law and
27 rules, as added by chapter 669 of the laws of 1984, is amended to read
28 as follows:

29 6. "Pre-conviction forfeiture crime" means only a felony defined in
30 article two hundred twenty or section 221.30 [or], 221.55, 470.21,
31 470.22, 470.23, OR 470.24 of the penal law.

32 S 33. Section 1311-a of the civil practice law and rules is amended by
33 adding a new subdivision 7 to read as follows:

34 7. A SUBPOENA DUCES TECUM ISSUED UNDER THIS SECTION OR ANY OTHER
35 PROVISION OF LAW IN AID OF A CIVIL FORFEITURE ACTION MAY REQUIRE THE
36 PRODUCTION OF RECORDS BY ANY PERSON OR ENTITY PRESENT IN THE STATE OR
37 DOING BUSINESS IN THE STATE PERTAINING TO PROPERTY LOCATED WITHIN OR
38 WITHOUT THE STATE.

39 S 34. The opening paragraph of section 1313 of the civil practice law
40 and rules is designated subdivision 1 and a new subdivision 2 is added
41 to read as follows:

42 2. ANY PERSON OR ENTITY PRESENT IN THE STATE OR DOING BUSINESS IN THE
43 STATE AND IN POSSESSION OR CONTROL OF PROPERTY AGAINST WHICH A FORFEI-
44 TURE JUDGMENT MAY BE ENFORCED MUST COMPLY WITH A TEMPORARY RESTRAINING
45 ORDER OR PRELIMINARY INJUNCTION ISSUED UNDER THIS ARTICLE WITH RESPECT
46 TO PROPERTY LOCATED WITHIN OR WITHOUT THE STATE. A CLAIMING AUTHORITY
47 MAY SEEK AN ORDER DIRECTING THAT SUCH PERSON OR ENTITY TRANSFER THE
48 PROPERTY TO THE CLAIMING AGENT TO BE HELD DURING THE PENDENCY OF THE
49 ACTION.

50 S 35. The tax law is amended by adding a new section 33 to read as
51 follows:

52 S 33. DISCLOSURE OF TAX RETURNS OR REPORTS OF PARTICULARS THEREIN IN
53 INVESTIGATION OR PROSECUTION OF STATE OR FEDERAL TERRORISM OFFENSES;
54 SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (A) DISCLOSURE OF TAX
55 RETURNS OR REPORTS OR PARTICULARS THEREIN IN CASES INVOLVING STATE OR
56 FEDERAL TERRORISM OFFENSES. (1) NOTWITHSTANDING ANY PROVISION OF LAW TO

1 THE CONTRARY, THE COMMISSIONER MAY DIVULGE, MAKE KNOWN OR DISCLOSE
2 RETURNS OR REPORTS OR PARTICULARS SET FORTH OR DISCLOSED IN ANY RETURN
3 OR REPORT REQUIRED UNDER ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE
4 COMMISSIONER UPON THE GRANT OF AN EX PARTE ORDER ISSUED BY A SUPERIOR
5 COURT UNDER PARAGRAPH TWO OF THIS SUBDIVISION, OR IN RESPONSE TO A GRAND
6 JURY SUBPOENA OR UPON A PARTICULARIZED WRITTEN REQUEST OF THE ATTORNEY
7 GENERAL, A STATE DISTRICT ATTORNEY, A FEDERAL PROSECUTOR, AN INDIVIDUAL
8 SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR ANY OTHER ATTORNEY REPRESENTING
9 THE STATE OR THE UNITED STATES, WHICH STATES THAT SUCH INFORMATION IS
10 SOUGHT IN CONNECTION WITH AN INVESTIGATION OR PROSECUTION OF AN ACT OR
11 ACTS IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE
12 FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE AND
13 THE INFORMATION IS OR MAY BE RELEVANT TO THE COMMISSION OF SUCH ACT OR
14 ACTS. ANY SUCH RETURN OR REPORT OR PARTICULARS MAY BE REDISCLOSED TO
15 FEDERAL, STATE OR LOCAL LAW ENFORCEMENT OFFICIALS PARTICIPATING IN THE
16 INVESTIGATION OF TERRORIST ACTS OR THREATS.

17 (2) SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR,
18 INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY
19 REPRESENTING THE STATE OR THE UNITED STATES MAY MAKE AN APPLICATION TO A
20 SUPERIOR COURT FOR THE ORDER REFERRED TO IN PARAGRAPH ONE OF THIS SUBDI-
21 VISION. UPON SUCH APPLICATION, SUCH COURT MAY GRANT SUCH ORDER IF IT
22 DETERMINES ON THE BASIS OF THE FACTS SUBMITTED BY THE APPLICANT THAT:

23 (A) THERE IS REASONABLE CAUSE TO BELIEVE THAT A CRIME IN VIOLATION OF
24 SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY
25 OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE HAS BEEN COMMITTED;

26 (B) THERE IS REASONABLE CAUSE TO BELIEVE THAT SUCH RETURN OR REPORT OR
27 PARTICULARS ARE OR MAY BE RELEVANT TO A MATTER RELATING TO THE COMMIS-
28 SION OF SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
29 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
30 TERRORISM OFFENSE; AND

31 (C) SUCH RETURN OR REPORT OR PARTICULARS ARE SOUGHT EXCLUSIVELY FOR
32 USE IN THE STATE OR A FEDERAL CRIMINAL INVESTIGATION OR PROCEEDING
33 CONCERNING SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
34 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
35 TERRORISM OFFENSE, AND THE INFORMATION SOUGHT TO BE DISCLOSED CANNOT
36 REASONABLY BE OBTAINED, UNDER THE CIRCUMSTANCES, FROM ANOTHER SOURCE.

37 (3) IF ANY PERSON SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION HAS
38 RECEIVED ANY SUCH RETURN OR REPORT OR PARTICULARS PURSUANT TO THE
39 PROVISIONS OF THIS SUBDIVISION, THEN SUCH PERSON MAY DISCLOSE TO THE
40 COMMISSIONER ANY INFORMATION DISCOVERED DURING THE COURSE OF ANY INVE-
41 STIGATION OR JUDICIAL PROCEEDING REFERRED TO IN THIS SUBDIVISION, WHICH
42 MAY RELATE TO A VIOLATION OR VIOLATIONS OF THE PROVISIONS OF ANY TAX OR
43 OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

44 (4) IF SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR,
45 INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY
46 REPRESENTING THE STATE OR THE UNITED STATES HAS OBTAINED ANY SUCH
47 RETURNS OR REPORTS OR PARTICULARS PURSUANT TO THE PROVISIONS OF THIS
48 SUBDIVISION, THEN SUCH RETURNS OR REPORTS OR PARTICULARS MAY BE ADMITTED
49 INTO EVIDENCE AND DISCLOSED IN ANY JUDICIAL PROCEEDING PERTAINING TO
50 ENFORCEMENT OF A CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
51 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
52 TERRORISM OFFENSE OR RELATED CIVIL FORFEITURE (NOT INVOLVING TAX ADMIN-
53 ISTRATION) TO WHICH THE STATE OR THE UNITED STATES IS A PARTY.

54 (B) THIS SECTION SHALL NOT APPLY TO ANY DISCLOSURE OF THE RETURNS OR
55 REPORTS OR PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION TO
56 THE EXTENT THAT SUCH DISCLOSURE IS PERMITTED OR AUTHORIZED BY ANY OTHER

PROVISION OF THIS CHAPTER OR ANY PROVISION OF ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

(C) SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (1) EXCEPT IN ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, IT SHALL BE UNLAWFUL FOR ANY PERSON TO WHOM THE RETURNS OR REPORTS OR PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION ARE DISCLOSED IN ACCORDANCE WITH THIS SECTION TO DIVULGE OR MAKE KNOWN IN ANY MANNER SUCH INCOME OR PARTICULARS FOR USES NOT AUTHORIZED UNDER THIS SECTION.

(2) CROSS-REFERENCE. FOR CRIMINAL PENALTIES, SEE ARTICLE 37 OF THIS CHAPTER.

S 36. Section 1825 of the tax law, as amended by section 2 of part N of chapter 686 of the laws of 2003, is amended to read as follows:

S 1825. Violation of secrecy provisions of the tax law.--Any person who violates the provisions of subdivision (b) of section twenty-one AS ADDED BY CHAPTER 686 OF THE LAWS OF 2003, SECTION THIRTY-THREE, subdivision one of section two hundred two, subdivision eight of section two hundred eleven, subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of section eleven hundred forty-six, subdivision (a) of section fourteen hundred eighteen, subsection (a) of section fourteen hundred sixty-seven, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of this chapter, and subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

S 37. Subdivision 1 of section 21 of the executive law, as amended by chapter 346 of the laws of 2002, is amended to read as follows:

1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, social services, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, the president of the New York state energy research and development authority, the superintendents of state police, insurance, banking, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the director of the state office for technology, the chairman of the thruway authority, THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY, the chief professional officer of the state coordinating chapter of the American Red Cross and three additional members, to be appointed by the governor, two of whom shall be chief executives. The governor shall designate the chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

S 38. If any item, clause, sentence, subparagraph, subdivision, section or other part of this act, or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, subdivision, section or other

1 part of this act directly involved in such holding, or to the person and
2 circumstances therein involved.
3 S 39. This act shall take effect immediately, provided, however, that
4 the amendments to paragraph (a) of subdivision 1 of section 460.10 of
5 the penal law made by section seven of this act shall take effect on the
6 same date and in the same manner as section 30 of part AAA of chapter 56
7 of the laws of 2009, takes effect, that the provisions of section 700.75
8 of the criminal procedure law, as added by section thirty-one of this
9 act, and the provisions of section 33 of the tax law, as added by
10 section thirty-five of this act, shall expire and be deemed repealed two
11 years after such date.