

7020

I N S E N A T E

March 8, 2010

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

AN ACT to amend the penal law, the executive law and the general business law, in relation to aggravated unlawful use of and the sale, delivery and transfer of body armor

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

1 Section 1. The penal law is amended by adding a new section 270.21 to  
2 read as follows:

3 S 270.21 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR.

4 A PERSON IS GUILTY OF AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR WHEN  
5 ACTING EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS HE COMMITS ANY  
6 VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THIS CHAPTER WHILE  
7 POSSESSING A FIREARM, RIFLE OR SHOTGUN AND IN THE COURSE OF AND IN  
8 FURTHERANCE OF SUCH CRIME HE, WHILE WEARING BODY ARMOR, INJURES OR KILLS  
9 A POLICE OFFICER.

10 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IS A CLASS D FELONY.

11 S 2. Subdivision 2 of section 70.25 of the penal law, as amended by  
12 chapter 56 of the laws of 1984, is amended to read as follows:

13 2. When more than one sentence of imprisonment is imposed on a person  
14 for two or more offenses committed through a single act or omission, or  
15 through an act or omission which in itself constituted one of the  
16 offenses and also was a material element of the other, the sentences,  
17 except if one or more of such sentences is for a violation of section  
18 270.20 OR 270.21 of this chapter, must run concurrently.

19 S 3. Section 10.00 of the penal law is amended by adding a new subdi-  
20 vision 21 to read as follows:

21 21. "BODY ARMOR" MEANS ANY VEST OR ARTICLE OF CLOTHING MADE OF BULLET  
22 RESISTANT MATERIAL SUCH AS KEVLAR AND AUGMENTED BY CERAMIC CHEST PLATES.

23 S 4. Paragraph (d) of subdivision 7 of section 995 of the executive  
24 law, as amended by chapter 2 of the laws of 2006, is amended to read as  
25 follows:

26 (d) any of the following felonies, or an attempt thereof where such  
27 attempt is a felony offense:

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

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1 aggravated assault upon a person less than eleven years old, as  
2 defined in section 120.12 of the penal law; menacing in the first  
3 degree, as defined in section 120.13 of the penal law; reckless endan-  
4 germent in the first degree, as defined in section 120.25 of the penal  
5 law; stalking in the second degree, as defined in section 120.55 of the  
6 penal law; criminally negligent homicide, as defined in section 125.10  
7 of the penal law; vehicular manslaughter in the second degree, as  
8 defined in section 125.12 of the penal law; vehicular manslaughter in  
9 the first degree, as defined in section 125.13 of the penal law;  
10 persistent sexual abuse, as defined in section 130.53 of the penal law;  
11 aggravated sexual abuse in the fourth degree, as defined in section  
12 130.65-a of the penal law; female genital mutilation, as defined in  
13 section 130.85 of the penal law; facilitating a sex offense with a  
14 controlled substance, as defined in section 130.90 of the penal law;  
15 unlawful imprisonment in the first degree, as defined in section 135.10  
16 of the penal law; custodial interference in the first degree, as defined  
17 in section 135.50 of the penal law; criminal trespass in the first  
18 degree, as defined in section 140.17 of the penal law; criminal tamper-  
19 ing in the first degree, as defined in section 145.20 of the penal law;  
20 tampering with a consumer product in the first degree, as defined in  
21 section 145.45 of the penal law; robbery in the third degree as defined  
22 in section 160.05 of the penal law; identity theft in the second degree,  
23 as defined in section 190.79 of the penal law; identity theft in the  
24 first degree, as defined in section 190.80 of the penal law; promoting  
25 prison contraband in the first degree, as defined in section 205.25 of  
26 the penal law; tampering with a witness in the third degree, as defined  
27 in section 215.11 of the penal law; tampering with a witness in the  
28 second degree, as defined in section 215.12 of the penal law; tampering  
29 with a witness in the first degree, as defined in section 215.13 of the  
30 penal law; criminal contempt in the first degree, as defined in subdivi-  
31 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated  
32 criminal contempt, as defined in section 215.52 of the penal law; bail  
33 jumping in the second degree, as defined in section 215.56 of the penal  
34 law; bail jumping in the first degree, as defined in section 215.57 of  
35 the penal law; patronizing a prostitute in the second degree, as defined  
36 in section 230.05 of the penal law; patronizing a prostitute in the  
37 first degree, as defined in section 230.06 of the penal law; promoting  
38 prostitution in the second degree, as defined in section 230.30 of the  
39 penal law; promoting prostitution in the first degree, as defined in  
40 section 230.32 of the penal law; compelling prostitution, as defined in  
41 section 230.33 of the penal law; disseminating indecent materials to  
42 minors in the second degree, as defined in section 235.21 of the penal  
43 law; disseminating indecent materials to minors in the first degree, as  
44 defined in section 235.22 of the penal law; riot in the first degree, as  
45 defined in section 240.06 of the penal law; criminal anarchy, as defined  
46 in section 240.15 of the penal law; aggravated harassment of an employee  
47 by an inmate, as defined in section 240.32 of the penal law; unlawful  
48 surveillance in the second degree, as defined in section 250.45 of the  
49 penal law; unlawful surveillance in the first degree, as defined in  
50 section 250.50 of the penal law; endangering the welfare of a vulnerable  
51 elderly person in the second degree, as defined in section 260.32 of the  
52 penal law; endangering the welfare of a vulnerable elderly person in the  
53 first degree, as defined in section 260.34 of the penal law; use of a  
54 child in a sexual performance, as defined in section 263.05 of the penal  
55 law; promoting an obscene sexual performance by a child, as defined in  
56 section 263.10 of the penal law; possessing an obscene sexual perform-

1   ance by a child, as defined in section 263.11 of the penal law; promot-  
2   ing a sexual performance by a child, as defined in section 263.15 of the  
3   penal law; possessing a sexual performance by a child, as defined in  
4   section 263.16 of the penal law; criminal possession of a weapon in the  
5   third degree, as defined in section 265.02 of the penal law; criminal  
6   sale of a firearm in the third degree, as defined in section 265.11 of  
7   the penal law; criminal sale of a firearm to a minor, as defined in  
8   section 265.16 of the penal law; unlawful wearing of a body vest, as  
9   defined in section 270.20 of the penal law; AGGRAVATED UNLAWFUL WEARING  
10  OF BODY ARMOR, AS DEFINED IN SECTION 270.21 OF THE PENAL LAW; hate  
11  crimes as defined in section 485.05 of the penal law; and crime of  
12  terrorism, as defined in section 490.25 of the penal law;

13   S 5. The executive law is amended by adding a new section 100-a to  
14  read as follows:

15   S 100-A. CENTRAL STATE REGISTRY OF BODY ARMOR SALES. 1. THE SECRETARY  
16  OF STATE SHALL MAINTAIN A COMPUTERIZED REGISTRY OF ALL INDIVIDUALS WHO  
17  SELL, DELIVER OR TRANSFER FOR BODY ARMOR PURSUANT TO THE PROVISIONS OF  
18  SECTION THREE HUNDRED NINETY-SIX-EEE OF THE GENERAL BUSINESS LAW. THE  
19  REGISTRY SHALL INCLUDE THE NAME, ADDRESS AND BUSINESS LICENSE OR REGIS-  
20  TRATION NUMBER AS WELL AS THE IDENTIFYING BAR CODE OR OTHER CODE ASSOCI-  
21  ATED WITH THE BODY ARMOR.

22   2. THE SECRETARY OF STATE SHALL MAINTAIN ALL RECORDS COLLECTED FOR A  
23  PERIOD OF FIVE YEARS. EVERY DISTRIBUTOR OR DEALER OF BODY ARMOR SHALL  
24  FILE WITH THE SECRETARY, ON A MONTHLY BASIS, A REPORT, STATING ALL THE  
25  SALES, DELIVERIES AND TRANSFERS OF BODY ARMOR IN SUCH FORM AND ON SUCH  
26  MEDIA AS APPROVED FOR SUCH PURPOSE BY THE SECRETARY.

27   S 6. The general business law is amended by adding a new section 396-  
28  eee to read as follows:

29   S 396-EEE. SALE OF BODY ARMOR; REGISTRY. (1) NO PERSON, FIRM OR CORPO-  
30  RATION ENGAGED IN THE RETAIL BUSINESS OF SELLING BODY ARMOR, AS SUCH  
31  TERM IS DEFINED IN SECTION 10.00 OF THE PENAL LAW, SHALL SELL, DELIVER  
32  OR TRANSFER ANY SUCH BODY ARMOR TO ANOTHER PERSON UNLESS THE TRANSFEREE  
33  IS PROVIDED AT THE TIME OF SALE, DELIVERY OR TRANSFER, WITH A LABEL  
34  CONTAINING THE QUOTED LANGUAGE SPECIFIED IN SUBDIVISION TWO OF THIS  
35  SECTION EITHER AFFIXED TO SUCH BODY ARMOR OR PLACED IN THE CONTAINER IN  
36  WHICH SUCH BODY ARMOR IS SOLD, DELIVERED OR TRANSFERRED.

37   (2) EVERY PERSON, FIRM OR CORPORATION ENGAGED IN THE RETAIL BUSINESS  
38  OF SELLING BODY ARMOR, AS SUCH TERM IS DEFINED IN SECTION 10.00 OF THE  
39  PENAL LAW, SHALL, IN THE PLACE WHERE SUCH BODY ARMOR ARE DISPLAYED OR  
40  TRANSFERRED TO THE PURCHASER, POST A NOTICE CONSPICUOUSLY STATING IN  
41  BOLD PRINT THAT: "THE PURCHASE, RECEIPT OR TRANSFER OF A BODY ARMOR IN  
42  NEW YORK STATE IS REGISTERED IN THE BODY ARMOR REGISTRY MAINTAINED BY  
43  THE DEPARTMENT OF STATE."

44   (3) ANY PERSON, FIRM OR CORPORATION WHO FAILS TO REGISTER EACH SALE,  
45  DELIVERY OR TRANSFER OF BODY ARMOR AND COMPLY WITH THE PROVISIONS OF  
46  THIS SECTION SHALL BE GUILTY OF A VIOLATION PUNISHABLE AS PROVIDED IN  
47  THE PENAL LAW. ANY PERSON, FIRM, OR CORPORATION WHO FAILS TO COMPLY WITH  
48  THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED OF  
49  A VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR,  
50  PUNISHABLE AS PROVIDED IN THE PENAL LAW.

51   S 7. This act shall take effect on the first of November next succeed-  
52  ing the date on which it shall have become a law; provided, however,  
53  that effective immediately, the addition, amendment and/or repeal of any  
54  rule or regulation necessary for the implementation of this act on its  
55  effective date are authorized and directed to be made and completed on  
56  or before such effective date.