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

1822

2009-2010 Regular Sessions

I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to prohibiting the use of a video mobile telephone within the premises of a health club and the dissemination of images so derived

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

Section 1. The opening paragraph of section 250.40 of the penal law, as added by chapter 69 of the laws of 2003, is amended and four new subdivisions 8, 9, 10 and 11 are added to read as follows:

The following definitions shall apply to sections 250.42, 250.45, 250.50, 250.55 and 250.60 of this article:

8. "MOBILE TELEPHONE" MEANS THE DEVICE USED BY SUBSCRIBERS AND OTHER USERS OF WIRELESS TELEPHONE SERVICE TO ACCESS SUCH SERVICE.

9. "WIRELESS TELEPHONE SERVICE" MEANS TWO-WAY REAL TIME VOICE TELECOMMUNICATIONS SERVICE THAT IS INTERCONNECTED TO A PUBLIC SWITCHED TELEPHONE NETWORK AND IS PROVIDED BY A COMMERCIAL MOBILE RADIO SERVICE, AS SUCH TERM IS DEFINED BY 47 C.F.R. S20.3.

10. "HEALTH CLUB" MEANS ANY PREMISES OFFERING INSTRUCTION, TRAINING OR ASSISTANCE OR THE FACILITIES FOR THE PRESERVATION, MAINTENANCE, ENCOURAGEMENT OR DEVELOPMENT OF PHYSICAL FITNESS OR WELL BEING. SUCH TERM SHALL INCLUDE BUT SHALL NOT BE LIMITED TO HEALTH SPAS, SPORTS, TENNIS, RACQUET BALL, PLATFORM TENNIS AND HEALTH CLUBS, FIGURE SALONS, HEALTH STUDIOS, GYMNASIUMS, WEIGHT CONTROL STUDIOS, MARTIAL ARTS AND SELF-DEFENSE SCHOOLS OR ANY OTHER SIMILAR COURSE OF PHYSICAL TRAINING.

11. "VIDEO MOBILE TELEPHONE" MEANS A MOBILE TELEPHONE EQUIPPED WITH AN IMAGING DEVICE.

S 2. The penal law is amended by adding a new section 250.42 to read as follows:

S 250.42 UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB.

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

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A PERSON IS GUILTY OF UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB WHEN HE OR SHE ACTIVATES OR USES THE IMAGING DEVICE FUNCTION OR CAPACITY OF A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB.

UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB IS A CLASS A MISDEMEANOR.

S 3. Subdivision 3 of section 250.60 of the penal law, as added by chapter 69 of the laws of 2003, is amended and a new subdivision 4 is added to read as follows:

3. He or she commits the crime of dissemination of an unlawful surveillance image in the second degree and has been previously convicted within the past ten years of dissemination of an unlawful surveillance image in the first or second degree[.]; OR

4. HE OR SHE, WITH KNOWLEDGE OF THE UNLAWFUL CONDUCT BY WHICH AN IMAGE OR IMAGES OF ANOTHER PERSON OR PERSONS WERE OBTAINED AND SUCH UNLAWFUL CONDUCT WOULD SATISFY THE ESSENTIAL ELEMENTS OF THE CRIME OF UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB, INTENTIONALLY DISSEMINATES SUCH IMAGE OR IMAGES.

S 4. The penal law is amended by adding a new section 60.14 to read as follows:

S 60.14 AUTHORIZED DISPOSITIONS; UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB.

WHEN A PERSON IS TO BE SENTENCED UPON A CONVICTION OF UNLAWFUL SURVEILLANCE USING A VIDEO MOBILE TELEPHONE WITHIN THE PREMISES OF A HEALTH CLUB, THE SENTENCE OF THE COURT SHALL BE AS FOLLOWS:

(A) A PERIOD OF CONDITIONAL DISCHARGE, AS PROVIDED IN ARTICLE SIXTY-FIVE OF THIS TITLE; OR

(B) UNCONDITIONAL DISCHARGE AS PROVIDED IN SECTION 65.20 OF THIS TITLE; OR

(C) A FINE, AS PROVIDED IN ARTICLE EIGHTY OF THIS TITLE.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.