

5392

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. McKEVITT, KOLB, TOWNSEND, GIGLIO, McDONOUGH,
WALKER, ALFANO, BARRA -- Multi-Sponsored by -- M. of A. BACALLES,
ERRIGO, FINCH, FITZPATRICK, HAWLEY, OAKS -- read once and referred to
the Committee on Codes

AN ACT to amend the penal law, in relation to the criminal sale of
police insignia

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

1 Section 1. Section 190.27 of the penal law, as added by chapter 99 of
2 the laws of 1994, is amended to read as follows:
3 S 190.27 Criminal sale of a police uniform.
4 A person is guilty of criminal sale of a police uniform when he or she
5 sells or offers for sale the uniform of any police officer to any
6 person, unless presented with a valid photo identification card showing
7 the purchaser to be a member of the police department which has author-
8 ized the requested uniform or an authorization to purchase specified
9 uniforms signed by the police chief or the police commissioner of such
10 police department accompanied by a personal photo identification. For
11 purposes of this section, "police officer" shall include federal law
12 enforcement officers, as defined in section 2.15 of the criminal proce-
13 dure law; and "uniform" shall include all or any part of the uniform
14 which identifies the wearer as a member of a police department, such as
15 the uniform, [shield, badge,] numbers or other identifying insignias or
16 emblems.
17 Criminal sale of a police uniform is a class A misdemeanor.
18 S 2. The penal law is amended by adding a new section 190.28 to read
19 as follows:
20 S 190.28 CRIMINAL SALE OF POLICE INSIGNIA.
21 1. A PERSON IS GUILTY OF CRIMINAL SALE OF POLICE INSIGNIA WHEN HE OR
22 SHE SELLS OR OFFERS FOR SALE ANY POLICE BADGE OR SHIELD TO ANY PERSON
23 EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION, UNLESS THE

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

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1 PURCHASER PRESENTS A VALID PHOTO IDENTIFICATION SHOWING THE PURCHASER TO
2 BE A POLICE OFFICER OR PEACE OFFICER, OR PRESENTS A WRITTEN AUTHORI-
3 ZATION TO PURCHASE THE SPECIFIED ITEM SIGNED BY THE POLICE CHIEF OR
4 POLICE COMMISSIONER OF THE POLICE DEPARTMENT OR AGENCY REPRESENTED BY
5 SUCH INSIGNIA, ACCOMPANIED BY A PERSONAL PHOTOGRAPHIC IDENTIFICATION OF
6 THE PURCHASER.

7 2. FOR THE PURPOSE OF THIS SECTION, "POLICE BADGE" OR "SHIELD" MEANS
8 ANY BADGE OR SHIELD DESIGNED FOR OR REPLICATING THAT WHICH IS DESIGNED
9 FOR WEAR ON A POLICE OR PEACE OFFICER'S UNIFORM, OR FOR CARRYING IN A
10 WALLET, BADGE CASE OR BY OTHER CONCEALED METHOD, AND WHICH INCLUDES THE
11 WORDING "POLICE", "POLICE OFFICER", "PEACE OFFICER", "CONSTABLE",
12 "SPECIAL OFFICER", "SPECIAL PATROLMAN", OR "SPECIAL AGENT". FOR PURPOSES
13 OF THIS SECTION, "POLICE BADGE" OR "SHIELD" INCLUDES BADGES AND SHIELDS
14 OF FEDERAL LAW ENFORCEMENT OFFICERS AS DEFINED IN SECTION 2.15 OF THE
15 CRIMINAL PROCEDURE LAW.

16 3. THIS SECTION SHALL NOT PERTAIN TO MINIATURE REPLICA BADGES OR
17 SHIELDS WHICH ARE LESS THAN FIFTY PERCENT IN SIZE OF THE INSIGNIA THEY
18 REPLICATE.

19 4. THE SALE OF OR OFFER TO SELL POLICE BADGES, SHIELDS, EMBROIDERED
20 EMBLEMS OR OTHER INSIGNIA SHALL NOT BE PROHIBITED BY THIS SECTION WHEN
21 THE PURCHASER DISPLAYS IDENTIFICATION INDICATING HE OR SHE IS:

22 (A) AN ACTIVE OR RETIRED POLICE OFFICER, PEACE OFFICER OR FEDERAL LAW
23 ENFORCEMENT OFFICER; OR

24 (B) A PERSON ENGAGED IN THE BUSINESS OF PROVISION OF PROPS OR COSTUMES
25 FOR MOTION PICTURE OR THEATRICAL PRODUCTIONS; OR

26 (C) A PERSON REGULARLY ENGAGED IN THE BUSINESS OF RETAILING OR WHOLE-
27 SALING LAW ENFORCEMENT UNIFORMS OR INSIGNIA; OR

28 (D) A CURATOR OF A MUSEUM OPEN TO THE PUBLIC WHO IS PURCHASING INSIG-
29 NIA FOR MUSEUM DISPLAY; OR

30 (E) A BONA FIDE LAW ENFORCEMENT HISTORIAN OR INSIGNIA COLLECTOR WHO IS
31 A MEMBER OF A DULY ORGANIZED ASSOCIATION OR ORGANIZATION OF SUCH HISTO-
32 RIANS OR COLLECTORS, WHOSE NON-LAW ENFORCEMENT MEMBERS HAVE BEEN SPON-
33 SORED BY LAW ENFORCEMENT OFFICERS.

34 CRIMINAL SALE OF POLICE INSIGNIA IS A CLASS A MISDEMEANOR.

35 S 3. This act shall take effect on the first of November next succeed-
36 ing the date on which it shall have become a law.