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

5734

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

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

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.