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

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2009-2010 Regular Sessions

I N A S S E M B L Y

April 29, 2009

Introduced by M. of A. LENTOL -- (at request of the Division of Criminal Justice Services) -- read once and referred to the Committee on Codes

AN ACT to amend the executive law, the criminal procedure law, the general business law and the public officers law, in relation to peace officer training; and repealing section 845-a of the executive law relating thereto

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

Section 1. Section 845-a of the executive law is REPEALED.

S 2. Section 845 of the executive law, as added by chapter 482 of the laws of 1979, is amended to read as follows:

S 845. Central state registry of police officers AND PEACE OFFICERS. 1. The division shall collect information to maintain, on a current basis, a registry of all police officers AND PEACE OFFICERS in the state. Such registry shall contain, with respect to each [police] officer, his OR HER name, date of birth, social security number, rank or title, [department] EMPLOYER, and [whether he is employed full-time or part-time] DATE OF SUCCESSFUL COMPLETION OF TRAINING REQUIRED BY SECTION 2.30 OF THE CRIMINAL PROCEDURE LAW AND SECTION TWO HUNDRED NINE-Q OF THE GENERAL MUNICIPAL LAW.

2. Each head of a state or local agency, unit of local government, state or local commission, [or] public authority OR OTHER ORGANIZATION which employs police officers OR PEACE OFFICERS shall transmit to the division, no later than the fifteenth day of January[, nineteen hundred eighty] ANNUALLY, AND IN A FORM AND MANNER PRESCRIBED BY THE DIVISION, a list containing the name of every police officer OR PEACE OFFICER employed by his OR HER agency, government, commission, authority or organization [on the first day of January, nineteen hundred eighty,] indicating with respect to each [police] officer his OR HER date of birth, social security number, rank or title, [department] EMPLOYER, AND whether he is employed full-time or part-time. [Each such head shall

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

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thereafter, no later than the tenth day of each January and July, transmit to the division a list of those police officers who have been appointed, have had a change of rank, or have ceased to serve in the preceding six calendar months and, in the instance of new appointees, shall include all the information required to be furnished in the initial listing.] IN ADDITION TO SUCH ANNUAL LIST, EACH SUCH HEAD, WHENEVER OFFICERS HAVE BEEN NEWLY APPOINTED OR HAVE CEASED TO SERVE, SHALL IMMEDIATELY TRANSMIT TO THE DIVISION, IN A FORM AND MANNER PRESCRIBED BY THE DIVISION, A LIST CONTAINING THE NAMES OF SUCH OFFICERS WHICH, IN THE INSTANCE OF NEW APPOINTEES, SHALL INCLUDE ALL THE INFORMATION REQUIRED TO BE FURNISHED IN THE ANNUAL LISTING.

3. [Each such head shall have the option to enter into an agreement with the division whereby the required semi-annual updating of registry information may be regularly done on a more frequent basis.] THE DIVISION SHALL ESTABLISH RULES AND REGULATIONS TO PROVIDE FOR A PERMANENT SYSTEM OF IDENTIFICATION FOR EACH POLICE AND PEACE OFFICER, WHICH SHALL INCLUDE PROCEDURES FOR UPDATING THE REGISTRY UPON AN OFFICER'S FAILURE TO COMPLETE REQUIRED TRAINING WITHIN THE TIME LIMITATIONS ESTABLISHED IN LAW OR REGULATION.

4. UPON THE FAILURE OR REFUSAL TO COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION, THE COMMISSIONER MAY APPLY TO THE SUPREME COURT FOR AN ORDER DIRECTED TO THE PERSON RESPONSIBLE REQUIRING COMPLIANCE. UPON SUCH APPLICATION THE COURT MAY ISSUE SUCH ORDER AS MAY BE JUST, AND A FAILURE TO COMPLY WITH THE ORDER OF THE COURT SHALL BE A CONTEMPT OF COURT AND PUNISHABLE AS SUCH.

5. THE DIVISION SHALL COOPERATE WITH THE DIVISION OF STATE POLICE IN MAKING THE INFORMATION IN THE CENTRAL REGISTRY OF POLICE AND PEACE OFFICERS AVAILABLE FOR THE PURPOSE OF VERIFYING TRANSACTIONS INVOLVING FIREARMS.

S 3. Section 2.30 of the criminal procedure law, as added by chapter 843 of the laws of 1980, subdivision 1 as amended by chapter 766 of the laws of 1989, the third undesignated paragraph of subdivision 1 as amended by chapter 474 of the laws of 1991, subdivision 5 as added by chapter 543 of the laws of 1987 and subdivision 6 as added by chapter 735 of the laws of 1988, is amended to read as follows:

S 2.30 Training requirements for peace officers.

1. Every peace officer in the state of New York[, appointed after the effective date of this article, who works a full complement of hours which constitutes full-time employment for the officer's employer,] must successfully complete a training program, a portion of which shall be prescribed by the municipal police training council and A PORTION OF WHICH SHALL BE PRESCRIBED by his OR HER employer[, the state or local agency, unit of local government, state or local commission, or public authority or private organization that employs him]. The portion prescribed by the municipal police training council shall be comprised of subjects, and the hours each is to be taught, that shall be required of all types or classes of peace officers. The hours of instruction required by the municipal police training council shall not exceed [thirty-five] ONE HUNDRED EIGHTY, unless a greater amount is either required by law or regulation, or is requested by the employer.

The segment prescribed by the employer for [his] ITS employees shall be comprised of subjects, and the hours each is to be taught, relating to the special nature of the duties of the peace officers employed by [him] IT PROVIDED, HOWEVER, THAT WHEN THE SUBJECTS PRESCRIBED BY THE EMPLOYER ARE IDENTICAL TO THE SUBJECTS IN THE TRAINING PROGRAM REQUIRED

BY THE MUNICIPAL POLICE TRAINING COUNCIL, THE EMPLOYER SHALL NOT BE REQUIRED TO PROVIDE DUPLICATE TRAINING FOR THOSE SUBJECTS.

2. Each state or local agency, unit of local government, state or local commission, or public authority, or public or private organization which employs peace officers shall provide the training mandated by this section, [and transmit to the municipal police training council within six months after the effective date of this article the proposed training program for peace officers, comprised of subjects required by the employer,] the cost of which will be borne by the employer. [The program shall:

(a) List the subjects comprising the proposed curriculum and the number of hours each is to be taught;

(b) List the proposed instructors for each subject with their qualifications; and

(c) Indicate the proposed location of the school.

In the reviewing of the employer's submission, the instructors must be found qualified by background and experience, and if so found, the course shall be certified by the municipal police training council. When the subjects prescribed by the employer are identical to the subjects in the training program required by the municipal police training council, the officer shall not be required to take duplicate training for those subjects. It is the responsibility of every employer to provide the training program certified by the municipal police training council.] Each peace officer satisfactorily completing the course PRESCRIBED BY THE MUNICIPAL POLICE TRAINING COUNCIL shall be awarded a certificate by the division of criminal justice services attesting to that effect, and no person appointed as a peace officer [after the effective date of this article] shall exercise the powers of a peace officer, unless he OR SHE has received such certification within twelve months of appointment.

3. [Where an employer has authorized a peace officer to carry or use a weapon during any phase of the officer's official duties, which constitutes on-duty employment, the program shall include the same number of hours of instruction in deadly physical force and the use of firearms and other weapons as is required in the basic training program for police officers by the municipal police training council. The program shall include the information set forth in subdivision seven of section 265.10 of the penal law.] No employer shall allow any peace officer[, notwithstanding when the officer was appointed,] IT EMPLOYS to carry or use a weapon during any phase of the officer's official duties, which constitutes on-duty employment, unless the officer has satisfactorily completed a course of training approved by the municipal police training council in the use of deadly physical force and firearms and other weapons, and annually receives instruction in deadly physical force and the use of firearms and other weapons as approved by the municipal police training council. [The course of training in the use of deadly physical force and firearms and other weapons shall be provided by the officer's employer, not later than six months from the date on which the officer was appointed, where the officer is authorized to carry a weapon pursuant to law.

2.] 4. Upon the failure or refusal to comply with the requirements of [subdivision one of] this section, the commissioner of the division of criminal justice services shall apply to the supreme court for an order directed to the person responsible requiring compliance. Upon such application, the court may issue such order as may be just, and a failure to comply with the order of the court shall be a contempt of court and punishable as such.

[3. Any individual who is a peace officer or a New York city special patrolman on the effective date of this article and has previously taken a formalized course of training while a peace officer or a New York city special patrolman, may apply, in writing, to the municipal police training council for certification. The application shall be granted or denied for reasons specifically and concisely stated in writing, and if granted, the exact extent of any waiver of the training then presently required for new appointees shall be set forth. The certification shall be granted only if the municipal police training council determines that the course of training previously taken by the applicant is in substantial compliance with the training then presently required for new appointees.

When an application is denied, it is the responsibility of the officer to obtain the training that is required in order to obtain certification. When a peace officer meets the training requirements specified herein, the division of criminal justice services shall issue that person a certificate attesting to the fact that he has satisfactorily completed the required training.

4. Any peace officer appointed after the effective date of this article who normally works on a part-time basis for less than the full complement of hours which would constitute full-time employment for their position as determined by their employer, shall receive training which may, in whole or in part, be in-service training. The portion of the training program required by the municipal police training council shall not exceed ten hours of instruction. The segment of the training program prescribed by the employer shall be comprised of subjects, and the hours each is to be taught, relating to the special nature of the duties of the peace officers employed by him. Every employer who employs part-time peace officers shall transmit to the municipal police training council within six months after the effective date of this article the proposed training program for its officers, in accordance with the procedure and requirements set forth in subdivision one of this section. Each peace officer satisfactorily completing the training requirements shall be issued a certificate by the division of criminal justice services attesting to that effect.]

5. Every employer of peace officers shall [annually] report to the [municipal police training council] DIVISION OF CRIMINAL JUSTICE SERVICES, in such form and at such time as the [council] DIVISION may by regulation require, the names [and addresses] of all peace officers who have[, during the course of the year,] satisfactorily completed any of the training requirements prescribed by this section.

6. A certificate attesting to satisfactory completion of the training requirements imposed under this section awarded to any peace officer by the executive director of the municipal police training council pursuant to this section shall remain valid:

(a) during the holder's continuous service as a peace officer; and

(b) for [two] FIVE years after the date of the commencement of an interruption in such service [where the holder had, immediately prior to such interruption, served as a peace officer for less than two consecutive years; or

(c) for four years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as a peace officer for two consecutive years or longer].

As used in this subdivision, the term "interruption" shall mean a period of separation from employment as a peace officer by reason of

such officer's leave of absence, resignation or removal, other than removal for cause.

S 4. Paragraph a of subdivision 2 of section 89-n of the general business law, as added by chapter 336 of the laws of 1992 and such paragraph as relettered by chapter 634 of the laws of 1994, is amended to read as follows:

a. A security guard who has been or was previously employed as a peace officer for eighteen months or more who exhibits a valid certificate awarded pursuant to subdivision six of section 2.30 of the criminal procedure law attesting to his or her satisfactory completion of the training requirements imposed by section 2.30 of the criminal procedure law shall be exempt from the requirements of paragraph c of subdivision one of this section provided that such peace officer has completed a course of firearms training approved by the municipal police training council [pursuant to the last paragraph of subdivision one of section 2.30 of the criminal procedure law] provided, however, that nothing in this subdivision shall be deemed to authorize such guard to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

S 5. Subdivision 8 of section 92 of the public officers law, as amended by chapter 336 of the laws of 1992, is amended to read as follows:

(8) Public safety agency record. The term "public safety agency record" means a record of the STATE commission of correction, the temporary state commission of investigation, the department of correctional services, the division for youth, the division of parole, the crime victims board, the division of probation and correctional alternatives or the division of state police or of any agency or component thereof whose primary function is the enforcement of civil or criminal statutes if such record pertains to investigation, law enforcement, confinement of persons in correctional facilities or supervision of persons pursuant to criminal conviction or court order, and any records maintained by the division of criminal justice services pursuant to sections eight hundred thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-seven-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight hundred thirty-nine, AND eight hundred forty-five[, and eight hundred forty-five-a] of the executive law and by the department of state pursuant to section ninety-nine of the executive law.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided, however, that completion of the training program required by subdivision 1 of section 2.30 of the criminal procedure law as amended by section three of this act shall apply only to peace officers appointed on or after the effective date of this act, and provided further that peace officers appointed prior to the effective date of this act shall be subject to the training requirements in place at the time of their appointment.