

8878

2009-2010 Regular Sessions

I N A S S E M B L Y

June 12, 2009

Introduced by M. of A. BALL, WALKER, TOWNSEND, CROUCH -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing definitions pertaining to offenses involving computers, establishing the crimes of computer intrusion in the third degree, computer intrusion in the second degree, computer intrusion in the first degree, aggravated computer intrusion, use of a minor in the commission of a computer offense, and cyberterrorism; to amend the criminal procedure law, in relation to making certain technical corrections thereto; to amend the penal law, the criminal procedure law, the civil practice law and rules, the tax law and the executive law, in relation to acts of terrorism; to repeal certain provisions of the penal law and the criminal procedure law relating to offenses involving computers; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Sections 156.00, 156.05, 156.10, 156.20, 156.25, 156.26,
2 156.27 and 156.50 of the penal law are REPEALED and seven new sections
3 156.00, 156.05, 156.10, 156.20, 156.25, 156.40 and 156.50 are added to
4 read as follows:
5 S 156.00 OFFENSES INVOLVING COMPUTERS; DEFINITION OF TERMS.
6 THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS CHAPTER EXCEPT WHERE
7 DIFFERENT MEANINGS ARE EXPRESSLY SPECIFIED:
8 1. "COMPUTER" MEANS A DEVICE OR GROUP OF DEVICES WHICH, BY MANIPU-
9 LATION OF ELECTRONIC, MAGNETIC, OPTICAL OR ELECTROCHEMICAL IMPULSES,
10 PURSUANT TO A COMPUTER PROGRAM, CAN AUTOMATICALLY PERFORM ARITHMETIC,
11 LOGICAL, STORAGE OR RETRIEVAL OPERATIONS WITH OR ON COMPUTER DATA, AND
12 INCLUDES ANY CONNECTED OR DIRECTLY RELATED DEVICE, EQUIPMENT OR FACILITY
13 WHICH ENABLES SUCH COMPUTER TO STORE, RETRIEVE OR COMMUNICATE TO OR FROM
14 A PERSON, ANOTHER COMPUTER OR ANOTHER DEVICE THE RESULTS OF COMPUTER
15 OPERATIONS, COMPUTER PROGRAMS OR COMPUTER DATA.

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

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1 2. "COMPUTER DATA" IS PROPERTY AND MEANS A REPRESENTATION OF INFORMA-
2 TION, KNOWLEDGE, FACTS, CONCEPTS OR INSTRUCTIONS WHICH ARE BEING PROC-
3 ESSED, OR HAVE BEEN PROCESSED IN A COMPUTER AND MAY BE IN ANY FORM,
4 INCLUDING MAGNETIC STORAGE MEDIA, PUNCHED CARDS, OR STORED INTERNALLY IN
5 THE MEMORY OF THE COMPUTER.

6 3. "DATA NETWORK" MEANS A COMPUTER SYSTEM THAT PROVIDES COMMUNICATIONS
7 BETWEEN ONE OR MORE COMPUTER SYSTEMS AND ITS INPUT OR OUTPUT DEVICES,
8 INCLUDING, BUT NOT LIMITED TO, DISPLAY TERMINALS THAT ARE INTERCON-
9 NECTED.

10 4. "COMPUTER SOFTWARE OR COMPUTER APPLICATION" MEANS A SET OF
11 INSTRUCTIONS OR STATEMENTS AND RELATED DATA WHICH, WHEN EXECUTED IN
12 ACTUAL OR MODIFIED FORM, CAUSE A COMPUTER, COMPUTER SYSTEM, OR DATA
13 NETWORK TO PERFORM SPECIFIED FUNCTIONS.

14 5. "COMPUTER OPERATING SYSTEM" MEANS A COMPUTER PROGRAM THAT CONTROLS
15 INTERNAL AND EXTERNAL COMPUTER SOFTWARE OR COMPUTER APPLICATIONS, THAT
16 MAY BE USED TO EXECUTE OTHER COMPUTER PROGRAMS, GENERATE OUTPUT IN THE
17 FORM OF VISUAL, PRINT OR STORAGE MEDIA, OR TO CONTROL PERIPHERAL COMPUT-
18 ER DEVICES.

19 6. "COMPUTER MATERIAL" IS PROPERTY AND MEANS ANY COMPUTER DATA OR
20 COMPUTER PROGRAM WHICH:

21 (A) CONTAINS RECORDS OF THE MEDICAL HISTORY OR MEDICAL TREATMENT OF AN
22 IDENTIFIED OR READILY IDENTIFIABLE INDIVIDUAL OR INDIVIDUALS. THIS TERM
23 SHALL NOT APPLY TO THE GAINING ACCESS TO OR DUPLICATION SOLELY OF THE
24 MEDICAL HISTORY OR MEDICAL TREATMENT RECORDS OF A PERSON BY THAT PERSON
25 OR BY ANOTHER PERSON SPECIFICALLY AUTHORIZED BY THE PERSON WHOSE RECORDS
26 ARE GAINED ACCESS TO OR DUPLICATED; OR

27 (B) CONTAINS RECORDS MAINTAINED BY THE STATE OR ANY POLITICAL SUBDIVI-
28 SION THEREOF OR ANY GOVERNMENTAL INSTRUMENTALITY WITHIN THE STATE WHICH
29 CONTAINS ANY INFORMATION CONCERNING A PERSON WHICH BECAUSE OF NAME,
30 NUMBER, SYMBOL, MARK OR OTHER IDENTIFIER, CAN BE USED TO IDENTIFY THE
31 PERSON AND WHICH IS OTHERWISE PROHIBITED BY LAW FROM BEING DISCLOSED.
32 THIS TERM SHALL NOT APPLY TO THE GAINING ACCESS TO OR DUPLICATION SOLELY
33 OF RECORDS OF A PERSON BY THAT PERSON OR BY ANOTHER PERSON SPECIFICALLY
34 AUTHORIZED BY THE PERSON WHOSE RECORDS ARE GAINED ACCESS TO OR DUPLI-
35 CATED; OR

36 (C) CONTAINS THE FINANCIAL INFORMATION OF A PERSON. THIS TERM SHALL
37 NOT APPLY TO THE GAINING ACCESS TO OR DUPLICATION SOLELY OF RECORDS OF A
38 PERSON BY THAT PERSON OR BY ANOTHER PERSON SPECIFICALLY AUTHORIZED BY
39 THE PERSON WHOSE RECORDS ARE GAINED ACCESS TO OR DUPLICATED; OR

40 (D) IS NOT AND IS NOT INTENDED TO BE AVAILABLE TO ANYONE OTHER THAN
41 THE PERSON OR PERSONS RIGHTFULLY IN POSSESSION THEREOF OR SELECTED
42 PERSONS HAVING ACCESS THERETO WITH HIS, HER OR THEIR CONSENT AND WHICH
43 ACCORDS OR MAY ACCORD SUCH RIGHTFUL POSSESSORS AN ADVANTAGE OVER COMPET-
44 ITORS OR OTHER PERSONS WHO DO NOT HAVE KNOWLEDGE OR THE BENEFIT THEREOF.

45 7. "COMPUTER EXPLOIT" MEANS A COMPUTER PROGRAM OR SET OF COMPUTER
46 INSTRUCTIONS DESIGNED TO MODIFY, DAMAGE, DESTROY, RECORD OR TRANSMIT
47 INFORMATION WITHIN A COMPUTER, COMPUTER SYSTEM OR DATA NETWORK WITHOUT
48 THE INTENT OR PERMISSION OF THE OWNER OF THE INFORMATION OR OF THE
49 COMPUTER, COMPUTER SYSTEM OR DATA NETWORK. THIS INCLUDES, BUT IS NOT
50 LIMITED TO, INTRUSIONS KNOWN AS MALICIOUS CODES, VIRUSES OR WORMS WHICH
51 MAY BE SELF-REPLICATING OR SELF-PROPAGATING AND WHICH ARE DESIGNED TO
52 CONTAMINATE OTHER COMPUTERS, COMPUTER APPLICATIONS, COMPUTER SYSTEMS OR
53 COMPUTER DATA NETWORKS; CONSUME COMPUTER RESOURCES; MODIFY, DESTROY,
54 RECORD, OR TRANSMIT DATA; OR IN SOME OTHER FASHION USURP THE NORMAL
55 OPERATION OF THE COMPUTER, COMPUTER APPLICATION, COMPUTER SYSTEM, OR
56 DATA NETWORK.

1 8. "COMPUTER SYSTEM" MEANS A GROUP OF ONE OR MORE COMPUTERS LINKED
2 TOGETHER WITH THE ABILITY TO SHARE INFORMATION AND RESOURCES.

3 9. "COMPUTER PROGRAM" IS PROPERTY AND MEANS AN ORDERED SET OF DATA
4 REPRESENTING CODED INSTRUCTIONS OR STATEMENTS THAT, WHEN EXECUTED BY A
5 COMPUTER, CAUSES THE COMPUTER TO PROCESS DATA OR DIRECT THE COMPUTER TO
6 PERFORM ONE OR MORE COMPUTER OPERATIONS OR BOTH AND MAY BE IN ANY FORM.

7 10. "COMPUTER SERVICE" MEANS ANY AND ALL SERVICES PROVIDED BY OR
8 THROUGH THE FACILITIES OF ANY COMPUTER, DATA NETWORK, APPLICATION OR
9 OPERATING SYSTEM ALLOWING THE INPUT, OUTPUT, EXAMINATION, OR TRANSFER,
10 OF COMPUTER DATA OR COMPUTER PROGRAM FROM ONE COMPUTER TO ANOTHER.

11 11. "PERIPHERAL COMPUTER DEVICE" MEANS A DEVICE DIRECTLY CONNECTED TO
12 A COMPUTER OR INDIRECTLY THROUGH A DATA NETWORK.

13 12. "PATCH" MEANS A SOFTWARE OR APPLICATION UPDATE DISTRIBUTED BY THE
14 COMPUTER SOFTWARE MAKER DESIGNED TO FIX A VULNERABILITY IN COMPUTER
15 SOFTWARE OR COMPUTER APPLICATION.

16 S 156.05 COMPUTER INTRUSION IN THE THIRD DEGREE.

17 A PERSON IS GUILTY OF COMPUTER INTRUSION IN THE THIRD DEGREE WHEN HE
18 OR SHE DIRECTLY OR INDIRECTLY:

19 1. WILLFULLY, KNOWINGLY AND WITHOUT AUTHORIZATION MODIFIES, DESTROYS,
20 ACCESSES OR DISCLOSES APPLICATIONS OR SUPPORTING DOCUMENTATION RESIDING
21 OR EXISTING INTERNALLY OR EXTERNALLY TO A COMPUTER OR COMPUTER SYSTEM OR
22 DATA NETWORK; OR

23 2. WILLFULLY, KNOWINGLY AND WITHOUT AUTHORIZATION INSTALLS A COMPUTER
24 APPLICATION OR SOFTWARE; OR

25 3. WILLFULLY, KNOWINGLY AND WITHOUT AUTHORIZATION, DIRECTLY OR INDI-
26 RECTLY, USES A COMPUTER, COMPUTER OPERATING SYSTEM, DATA NETWORK OR
27 PERIPHERAL COMPUTER DEVICE CONNECTED THROUGH A DATA NETWORK; OR

28 4. WILLFULLY AND KNOWINGLY COMMITS A DENIAL OF SERVICE ATTACK. FOR
29 THE PURPOSES OF THIS SECTION, "DENIAL OF SERVICE ATTACK" MEANS PREVENT-
30 ING AUTHORIZED ACCESS TO COMPUTER RESOURCES OR DELAYING TIME CRITICAL
31 COMPUTER OPERATIONS BY INUNDATING OR OTHERWISE OVERLOADING A DATA
32 NETWORK, OR ATTEMPTING TO INUNDATE OR OTHERWISE OVERLOAD A COMPUTER
33 SERVICE.

34 COMPUTER INTRUSION IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

35 S 156.10 COMPUTER INTRUSION IN THE SECOND DEGREE.

36 A PERSON IS GUILTY OF COMPUTER INTRUSION IN THE SECOND DEGREE WHEN HE
37 OR SHE COMMITS COMPUTER INTRUSION IN THE THIRD DEGREE AND:

38 1. HE OR SHE HAS PREVIOUSLY BEEN CONVICTED OF ANY CRIME UNDER THIS
39 ARTICLE; OR

40 2. HE OR SHE INTENTIONALLY AND WITHOUT AUTHORIZATION ALTERS IN ANY
41 MANNER OR DESTROYS COMPUTER MATERIAL, AS DEFINED IN SECTION 156.00 OF
42 THIS ARTICLE; OR

43 3. HE OR SHE DOES SO WITH THE INTENT TO COMMIT OR FURTHER THE COMMIS-
44 SION OF ANY FELONY; OR

45 4. HE OR SHE CAUSES DAMAGES AS A RESULT OF THE COMPUTER INTRUSION IN
46 AN AGGREGATE AMOUNT EXCEEDING TWENTY-FIVE HUNDRED DOLLARS.

47 COMPUTER INTRUSION IN THE SECOND DEGREE IS A CLASS E FELONY.

48 S 156.20 COMPUTER INTRUSION IN THE FIRST DEGREE.

49 A PERSON IS GUILTY OF COMPUTER INTRUSION IN THE FIRST DEGREE WHEN HE
50 OR SHE COMMITS THE CRIME OF COMPUTER INTRUSION IN THE THIRD DEGREE SO AS
51 TO CAUSE DAMAGES AS A RESULT OF THE COMPUTER INTRUSION IN AN AGGREGATE
52 AMOUNT EXCEEDING TEN THOUSAND DOLLARS.

53 COMPUTER INTRUSION IN THE FIRST DEGREE IS A CLASS D FELONY.

54 S 156.25 AGGRAVATED COMPUTER INTRUSION.

1 A PERSON IS GUILTY OF AGGRAVATED COMPUTER INTRUSION WHEN HE OR SHE
2 COMMITS THE CRIME OF COMPUTER INTRUSION IN THE THIRD DEGREE AND IN
3 FURTHERANCE OF SUCH CRIME HE OR SHE:

4 1. ENCRYPTS A COMPUTER EXPLOIT OR DELETERIOUS SET OF INSTRUCTIONS IN
5 AN IMAGE OR COMPUTER FILE; OR

6 2. DEVELOPS A COMPUTER EXPLOIT THAT MODIFIES THE COMPUTER, COMPUTER
7 SYSTEM, OR COMPUTER OPERATING SYSTEM SO THAT A COMPUTER USER IS UNABLE
8 TO REPAIR THE MODIFICATION; OR

9 3. DEVELOPS A COMPUTER EXPLOIT THAT USES A PATCH DEVELOPED BY A SOFT-
10 WARE COMPANY TO TARGET A COMPUTER, COMPUTER SYSTEM, COMPUTER PROGRAM,
11 DATA NETWORK, COMPUTER SERVICE OR COMPUTER OPERATING SYSTEM TO TARGET
12 AND EXPLOIT A VULNERABILITY IN THE COMPUTER OPERATING SYSTEM OR COMPUTER
13 PROGRAM.

14 AGGRAVATED COMPUTER INTRUSION IS A CLASS E FELONY.

15 S 156.40 USE OF A MINOR IN THE COMMISSION OF A COMPUTER OFFENSE.

16 A PERSON IS GUILTY OF USE OF A MINOR IN THE COMMISSION OF A COMPUTER
17 OFFENSE WHEN, BEING EIGHTEEN YEARS OF AGE OR OLDER, HE OR SHE USES A
18 CHILD UNDER THE AGE OF EIGHTEEN TO EFFECTUATE THE COMMISSION OF ANY
19 COMPUTER OFFENSE UNDER THIS ARTICLE BY:

20 1. INFLUENCING OR COERCING THE CHILD TO COMMIT THE COMPUTER OFFENSE;
21 OR

22 2. INTENTIONALLY OR WILLFULLY SUPPLIES THE CHILD WITH THE INFORMATION
23 NECESSARY TO COMMIT THE COMPUTER OFFENSE WITH THE KNOWLEDGE THAT THE
24 CHILD INTENDS TO COMMIT A COMPUTER OFFENSE.

25 USE OF A MINOR IN THE COMMISSION OF A COMPUTER OFFENSE IS A CLASS E
26 FELONY.

27 S 156.50 OFFENSES INVOLVING COMPUTERS; DEFENSES.

28 UNDER SECTIONS 156.05, 156.10, 156.20, 156.25, AND 156.40 OF THIS
29 ARTICLE IT SHALL BE A DEFENSE THAT THE DEFENDANT WAS AUTHORIZED TO USE
30 THE COMPUTER PURSUANT TO A SERVICE AGREEMENT AND WHERE SUCH USE ORIGI-
31 NATED FROM A SERVICE LOCATION WITHIN THE UNITED STATES OR CANADA.

32 S 2. Section 490.05 of the penal law is amended by adding a new subdi-
33 vision 18 to read as follows:

34 18. "ACT OF CYBERTERRORISM" MEANS THE USE OF COMPUTING RESOURCES
35 INCLUDING BUT NOT LIMITED TO COMPUTERS, COMPUTER SYSTEMS, DATA NETWORKS,
36 COMPUTER SOFTWARE, COMPUTER APPLICATIONS AND COMPUTER OPERATING SYSTEMS
37 AS SUCH TERMS ARE DEFINED IN SECTION 156.00 OF THIS CHAPTER, AGAINST
38 PERSONS OR PROPERTY TO INTIMIDATE OR COERCE A GOVERNMENT, THE POPU-
39 LATION, OR ANY SEGMENT THEREOF, IN FURTHERANCE OF POLITICAL OR SOCIAL
40 OBJECTIVES.

41 S 3. The penal law is amended by adding a new section 490.28 to read
42 as follows:

43 S 490.28 CYBERTERRORISM.

44 A PERSON IS GUILTY OF CYBERTERRORISM WHEN, WITH THE INTENT TO INTIM-
45 IDATE A CIVILIAN POPULATION, INFLUENCE THE POLICY OF A UNIT OF GOVERN-
46 MENT BY INTIMIDATION OR COERCION, OR AFFECT THE CONDUCT OF A UNIT OF
47 GOVERNMENT, HE OR SHE COMMITS ANY OF THE CRIMES CONTAINED WITHIN ARTICLE
48 ONE HUNDRED FIFTY-SIX OF THIS CHAPTER DIRECTED AGAINST ANY COMPUTER,
49 COMPUTER SYSTEM OR DATA NETWORK OWNED OR OPERATED BY A LOCAL, STATE OR
50 FEDERAL GOVERNMENT ENTITY, ANY UTILITY INCLUDING BUT NOT LIMITED TO, ANY
51 ELECTRIC OR WATER UTILITY, OR A FINANCIAL INSTITUTION.

52 CYBERTERRORISM IS A CLASS B FELONY.

53 S 4. Paragraphs (j) and (k) of subdivision 1 of section 240.20 of the
54 criminal procedure law, paragraph (j) as added by chapter 514 of the
55 laws of 1986 and paragraph (k) as added by chapter 536 of the laws of
56 1989, are amended to read as follows:

1 (j) In [any prosecution under penal law section 156.05 or 156.10, the
2 time, place and manner of notice given pursuant to subdivision six of
3 section 156.00 of such law.

4 (k) in] any prosecution commenced in a manner set forth in this subdi-
5 vision alleging a violation of the vehicle and traffic law, in addition
6 to any material required to be disclosed pursuant to this article, any
7 other provision of law, or the constitution of this state or of the
8 United States, any written report or document, or portion thereof,
9 concerning a physical examination, a scientific test or experiment,
10 including the most recent record of inspection, or calibration or repair
11 of machines or instruments utilized to perform such scientific tests or
12 experiments and the certification certificate, if any, held by the oper-
13 ator of the machine or instrument, which tests or examinations were made
14 by or at the request or direction of a public servant engaged in law
15 enforcement activity or which was made by a person whom the prosecutor
16 intends to call as a witness at trial, or which the people intend to
17 introduce at trial.

18 S 5. Section 250.30 of the criminal procedure law is REPEALED.

19 S 6. Title P of the penal law is amended by adding a new article 280
20 to read as follows:

21 ARTICLE 280

22 OFFENSES RELATED TO AGRICULTURE

23 SECTION 280.00 DEFINITIONS.

24 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

25 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

26 280.15 LIMITATIONS OF APPLICATION.

27 S 280.00 DEFINITIONS.

28 THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

29 1. "CROPS" MEANS CORN, WHEAT, OATS, RYE, BARLEY, HAY, POTATOES AND DRY
30 BEANS.

31 2. "FARM PRODUCT" MEANS ANY AGRICULTURAL, HORTICULTURAL, FLORICULTUR-
32 AL, OR VEGETABLE OR FRUIT PRODUCTS OF THE SOIL, AQUACULTURE PRODUCTS,
33 LIVESTOCK OR MEAT, DAIRY PRODUCTS, POULTRY, EGGS, MILK, HONEY, MAPLE
34 TREE SAP AND MAPLE PRODUCTS PRODUCED THEREFROM, WOOL, HIDES, HAY, STRAW
35 AND GRAINS.

36 3. "FOOD" AND "FOOD PRODUCTS" MEANS ALL ARTICLES OF FOOD, DRINK,
37 CONFECTIONERY OR CONDIMENT, WHETHER SIMPLE, MIXED OR COMPOUND, USED OR
38 INTENDED FOR USE BY MAN OR ANIMALS, AND SHALL ALSO INCLUDE ALL
39 SUBSTANCES OR INGREDIENTS TO BE ADDED TO FOOD FOR ANY PURPOSE.

40 4. "LIVESTOCK" MEANS CATTLE, SHEEP, HOGS, GOATS, HORSES, POULTRY,
41 RATITES (SUCH AS OSTRICHES, EMUS, RHEAS AND KIWIS), FARMED DEER, FARMED
42 BUFFALO, AND FUR BEARING ANIMALS.

43 5. "PLANTS" MEANS TREES, SHRUBS, VINES, ANNUALS, BIENNIALS, PERENNI-
44 ALS, VEGETABLES, FORAGE AND CEREAL PLANTS AND ALL OTHER PLANT CUTTINGS,
45 GRAFTS, SCIONS, BUDS, AND OTHER PARTS OF PLANTS AND FRUIT, VEGETABLES,
46 ROOTS, BULBS, SEEDS, WOOD AND LUMBER.

47 S 280.05 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE.

48 A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE SECOND DEGREE
49 WHEN HE OR SHE:

50 1. INTENTIONALLY DESIGNS, MANUFACTURES OR ALTERS GENETIC MATERIAL TO
51 CREATE A BIOLOGICAL AGENT OR TOXIN WITH THE INTENT TO DESTROY A FOOD OR
52 FARM PRODUCT OR TO RENDER A FOOD OR FARM PRODUCT OTHERWISE UNDESIRABLE
53 FOR ITS CUSTOMARY USE; OR

54 2. INTENTIONALLY DESIGNS, DEVELOPS OR UTILIZES A PROCESS OR PROCESSES
55 TO GENETICALLY ALTER ANY PLANT USED FOR HUMAN OR LIVESTOCK CONSUMPTION

1 WITH THE INTENT TO RENDER SUCH PLANT TOXIC OR UNFIT FOR HUMAN OR LIVE-
2 STOCK CONSUMPTION.

3 AGRICULTURAL ADULTERATION IN THE SECOND DEGREE IS A CLASS D FELONY.
4 S 280.10 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE.

5 A PERSON IS GUILTY OF AGRICULTURAL ADULTERATION IN THE FIRST DEGREE
6 WHEN HE OR SHE:

7 1. INTENTIONALLY INTRODUCES A BIOLOGICAL ORGANISM, TOXIN OR TOXIC
8 CHEMICAL WITH THE INTENTION OF CAUSING HARM TO OR DISEASE OR DEATH OF
9 LIVESTOCK, OR RENDERING THE PRODUCTS OF SUCH LIVESTOCK UNFIT FOR HUMAN
10 CONSUMPTION;

11 2. INTENTIONALLY CONTAMINATES, ADULTERATES, DEFILES, CORRUPTS OR
12 ALTERS A FOOD OR FARM PRODUCT WITH THE INTENT TO INJURE, SICKEN OR KILL
13 PERSONS OR LIVESTOCK; OR

14 3. INTENTIONALLY INTRODUCES ANY BIOLOGICAL ORGANISM TO PLANTS OR CROPS
15 WITH THE INTENT TO RENDER SUCH PLANTS OR CROPS TOXIC OR OTHERWISE UNFIT
16 FOR HUMAN OR LIVESTOCK CONSUMPTION, OR UNDESIRABLE FOR THEIR CUSTOMARY
17 USE, OR TO CAUSE THE LAND UPON WHICH SUCH PLANTS OR CROPS ARE PRODUCED
18 TO BE UNSUITABLE FOR FURTHER AGRICULTURAL USE OR PRODUCTION.

19 AGRICULTURAL ADULTERATION IN THE FIRST DEGREE IS A CLASS C FELONY.
20 S 280.15 LIMITATIONS OF APPLICATION.

21 THIS ARTICLE DOES NOT APPLY TO ANY PROPERLY CONDUCTED SCIENTIFIC
22 TESTS, EXPERIMENTS, INVESTIGATIONS OR OTHER LAWFUL ACTIVITY INVOLVING
23 THE USE OF CROPS, FARM PRODUCTS, FOOD, FOOD PRODUCTS, LIVESTOCK OR
24 PLANTS, AS DEFINED IN THIS ARTICLE, PERFORMED FOR ONE OR MORE OF THE
25 FOLLOWING PURPOSES:

26 1. ANY PURPOSE SPECIFICALLY PERMITTED BY LAW;

27 2. ANY PEACEFUL PURPOSE RELATED TO AN INDUSTRIAL, AGRICULTURAL,
28 RESEARCH, MEDICAL, OR PHARMACEUTICAL ACTIVITY OR OTHER PEACEFUL ACTIV-
29 ITY;

30 3. ANY PURPOSE DIRECTLY RELATED TO PROTECTION AGAINST TOXIC CHEMICALS
31 AND TO PROTECTION AGAINST CHEMICAL WEAPONS;

32 4. ANY MILITARY PURPOSE OF THE UNITED STATES THAT IS NOT CONNECTED
33 WITH THE USE OF A CHEMICAL WEAPON OR THAT IS NOT DEPENDENT ON THE USE OF
34 THE TOXIC OR POISONOUS PROPERTIES OF THE CHEMICAL WEAPON TO CAUSE DEATH
35 OR OTHER HARM; AND

36 5. ANY LAW ENFORCEMENT PURPOSE, INCLUDING ANY DOMESTIC RIOT CONTROL
37 PURPOSE AND INCLUDING IMPOSITION OF CAPITAL PUNISHMENT.

38 S 7. Section 190.26 of the penal law is amended by adding a new subdi-
39 vision 4 to read as follows:

40 4. WHEN UPON AN AIRCRAFT OR IN AN AIRPORT, PRETENDS TO BE A PILOT OR A
41 MEMBER OF AN AVIATION FLIGHT OR GROUND CREW, OR WEARS, DISPLAYS OR
42 POSSESSES WITHOUT AUTHORITY, ANY UNIFORM, BADGE, INSIGNIA, IDENTIFICA-
43 TION OR FACSIMILE THEREOF BY WHICH SUCH PILOT, FLIGHT OR GROUND CREW
44 MEMBER IS DISTINGUISHED, OR FALSELY EXPRESSES BY HIS OR HER WORDS OR
45 ACTIONS THAT HE OR SHE IS A PILOT OR FLIGHT OR GROUND CREW MEMBER OR IS
46 ACTING WITH THE APPROVAL OR AUTHORITY OF ANY AIRLINE, AIRPORT, TRANSPOR-
47 TATION AUTHORITY OR AVIATION REGULATORY AGENCY.

48 S 8. Paragraph (a) of subdivision 1 of section 460.10 of the penal
49 law, as amended by section 30 of part AAA of chapter 56 of the laws of
50 2009, is amended to read as follows:

51 (a) Any of the felonies set forth in this chapter: sections 120.05,
52 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relat-
53 ing to homicide; sections 130.25, 130.30 and 130.35 relating to rape;
54 sections 135.20 and 135.25 relating to kidnapping; section 135.35 relat-
55 ing to labor trafficking; section 135.65 relating to coercion; sections
56 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10

1 and 145.12 relating to criminal mischief; article one hundred fifty
2 relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating
3 to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to
4 health care fraud; article one hundred sixty relating to robbery;
5 sections 165.45, 165.50, 165.52 and 165.54 relating to criminal
6 possession of stolen property; sections 165.72 and 165.73 relating to
7 trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30,
8 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25,
9 175.35, 175.40 and 210.40 relating to false statements; sections 176.15,
10 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20
11 and 178.25 relating to criminal diversion of prescription medications
12 and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40,
13 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22,
14 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections
15 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage
16 fraud, sections 190.40 and 190.42 relating to criminal usury; section
17 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relat-
18 ing to hindering prosecution; sections 210.10, 210.15, and 215.51 relat-
19 ing to perjury and contempt; section 215.40 relating to tampering with
20 physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21,
21 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and
22 220.77 relating to controlled substances; sections 225.10 and 225.20
23 relating to gambling; sections 230.25, 230.30, and 230.32 relating to
24 promoting prostitution; section 230.34 relating to sex trafficking;
25 sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
26 sections 263.10 and 263.15 relating to promoting a sexual performance by
27 a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the
28 provisions of section 265.10 which constitute a felony relating to
29 firearms and other dangerous weapons; and sections 265.14 and 265.16
30 relating to criminal sale of a firearm; [and] section 275.10, 275.20,
31 275.30, or 275.40 relating to unauthorized recordings; [and] sections
32 470.05, 470.10, 470.15 and 470.20 relating to money laundering; SECTIONS
33 470.21, 470.22, 470.23 AND 470.24 RELATING TO MONEY LAUNDERING IN
34 SUPPORT OF TERRORISM; SECTIONS 470.30 AND 470.35 RELATING TO STRUCTUR-
35 ING; AND ARTICLE FOUR HUNDRED NINETY RELATING TO TERRORISM; or

36 S 9. Subdivision 1 of section 470.25 of the penal law, as amended by
37 chapter 489 of the laws of 2000, is amended to read as follows:

38 1. Any person convicted of a violation of section 470.05, 470.10,
39 470.15, [or] 470.20, 470.21, 470.22, 470.23 OR 470.24 of this article
40 may be sentenced to pay a fine not in excess of two times the value of
41 the monetary instruments which are the proceeds of specified criminal
42 activity. When a fine is imposed pursuant to this subdivision, the court
43 shall make a finding as to the value of such monetary instrument or
44 instruments. If the record does not contain sufficient evidence to
45 support such a finding the court may conduct a hearing upon the issue.
46 In imposing a fine, the court shall consider the seriousness of the
47 conduct, whether the amount of the fine is disproportionate to the
48 conduct in which he engaged, its impact on victims, as well as the
49 economic circumstances of the convicted person, including the effect of
50 the imposition of such a fine upon his immediate family.

51 S 10. Section 470.00 of the penal law is amended by adding a new
52 subdivision 11 to read as follows:

53 11. "STRUCTURING" MEANS, FOR PURPOSES OF SECTIONS 470.30 AND 470.35 OF
54 THIS ARTICLE, A PERSON STRUCTURES A TRANSACTION IF THAT PERSON, ACTING
55 ALONE, OR IN CONJUNCTION WITH, OR ON BEHALF OF, OTHER PERSONS, CONDUCTS
56 OR ATTEMPTS TO CONDUCT ONE OR MORE TRANSACTIONS IN CURRENCY, IN ANY

1 AMOUNT, WITH ONE OR MORE FINANCIAL INSTITUTIONS, OR WITH ONE OR MORE
2 TRADES OR BUSINESSES, ON ONE OR MORE DAYS, IN ANY MANNER, IN SUCH A WAY
3 AS TO EVADE THE REPORTING REQUIREMENTS UNDER TITLE 31 OF THE UNITED
4 STATES CODE. "IN ANY MANNER" INCLUDES, BUT IS NOT LIMITED TO, THE BREAK-
5 ING DOWN OF A SINGLE SUM OF CURRENCY EXCEEDING TEN THOUSAND DOLLARS INTO
6 SMALLER SUMS, INCLUDING SUMS AT OR BELOW TEN THOUSAND DOLLARS, OR THE
7 CONDUCT OF A TRANSACTION, OR SERIES OF CURRENCY TRANSACTIONS, INCLUDING
8 TRANSACTIONS AT OR BELOW TEN THOUSAND DOLLARS. THE TRANSACTION OR TRAN-
9 SACTIONS NEED NOT EXCEED THE TEN THOUSAND DOLLAR REPORTING THRESHOLD AT
10 ANY SINGLE FINANCIAL INSTITUTION OR AT ANY SINGLE TRADE OR BUSINESS, ON
11 ANY SINGLE DAY IN ORDER TO CONSTITUTE STRUCTURING WITHIN THE MEANING OF
12 THIS DEFINITION.

13 S 11. The penal law is amended by adding two new sections 470.30 and
14 470.35 to read as follows:

15 S 470.30 STRUCTURING IN THE SECOND DEGREE.

16 A PERSON IS GUILTY OF STRUCTURING IN THE SECOND DEGREE WHEN HE OR SHE:

17 1. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION NOT TO FILE A
18 WRITTEN REPORT PURSUANT TO SUBCHAPTER II OF TITLE 31 OF THE UNITED
19 STATES CODE OR ANY REGULATION PRESCRIBED THEREUNDER; OR

20 2. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION TO FILE A WRIT-
21 TEN REPORT REQUIRED BY SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES
22 CODE OR ANY REGULATION PRESCRIBED THEREUNDER THAT CONTAINS A MATERIAL
23 OMISSION OR MISSTATEMENT OF FACT; OR

24 3. STRUCTURES OR ASSISTS IN STRUCTURING, OR ATTEMPTS TO STRUCTURE OR
25 ASSIST IN STRUCTURING, ANY TRANSACTION FOR THE PURPOSE OF EVADING A
26 REPORTING REQUIREMENT OF SUBCHAPTER II OF TITLE 31 OF THE UNITED STATES
27 CODE OR ANY REGULATION PRESCRIBED THEREUNDER.

28 STRUCTURING IN THE SECOND DEGREE IS A CLASS E FELONY.

29 S 470.35 STRUCTURING IN THE FIRST DEGREE.

30 A PERSON IS GUILTY OF STRUCTURING IN THE FIRST DEGREE WHEN HE OR SHE
31 COMMITS THE CRIME OF STRUCTURING IN THE SECOND DEGREE:

32 1. WITH INTENT TO PROMOTE THE CARRYING ON OF CRIMINAL CONDUCT; OR

33 2. AS PART OF A PATTERN OF ANY ILLEGAL ACTIVITY INVOLVING MORE THAN
34 ONE HUNDRED THOUSAND DOLLARS IN ANY TWELVE MONTH PERIOD.

35 STRUCTURING IN THE FIRST DEGREE IS A CLASS D FELONY.

36 S 12. The first undesignated paragraph of section 490.10 of the penal
37 law, as added by chapter 300 of the laws of 2001, is amended to read as
38 follows:

39 A person commits soliciting or providing support for an act of terror-
40 ism in the second degree when, with intent that material support or
41 resources will be used, in whole or in part, to plan, prepare, carry out
42 or aid in either an act of terrorism or the concealment of, or an escape
43 from, an act of terrorism, he or she (A) raises, solicits, collects or
44 provides material support or resources, OR (B) CONCEALS OR DISGUISES THE
45 NATURE OR OWNERSHIP OF MATERIAL SUPPORT OR RESOURCES.

46 S 13. The penal law is amended by adding two new sections 490.60 and
47 490.65 to read as follows:

48 S 490.60 CRIMINAL FACILITATION OF TERRORISM.

49 1. A PERSON IS GUILTY OF CRIMINAL FACILITATION OF TERRORISM WHEN,
50 BELIEVING IT PROBABLE THAT HE OR SHE IS RENDERING AID TO A PERSON WHO
51 INTENDS TO COMMIT AN OFFENSE DEFINED IN THIS ARTICLE, HE OR SHE ENGAGES
52 IN CONDUCT WHICH PROVIDES SUCH PERSON WITH MEANS OR OPPORTUNITY FOR THE
53 COMMISSION THEREOF AND WHICH IN FACT AIDS SUCH PERSON TO COMMIT SUCH
54 OFFENSE.

55 2. (A) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERROR-
56 ISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS A

1 VIOLENT FELONY OFFENSE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM
2 SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

3 (B) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
4 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN
5 OFFENSE DEFINED IN THIS ARTICLE OR AN ATTEMPT OR CONSPIRACY TO COMMIT
6 SUCH OFFENSE, OTHER THAN THE CRIME OF TERRORISM AS DEFINED IN SECTION
7 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF TERRORISM
8 SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE DEFENDANT
9 FACILITATED; PROVIDED, FURTHER, THAT WHEN A PERSON IS CONVICTED OF CRIM-
10 INAL FACILITATION OF TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE
11 HE OR SHE FACILITATED IS A CLASS A-I FELONY OFFENSE, THE CRIME OF CRIMI-
12 NAL FACILITATION OF TERRORISM SHALL BE PUNISHED AS A CLASS B VIOLENT
13 FELONY OFFENSE.

14 (C) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
15 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS THE
16 CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE
17 CRIME OF CRIMINAL FACILITATION OF TERRORISM SHALL BE DEEMED TO BE THE
18 SAME CATEGORY AS THE OFFENSE LEVEL APPLICABLE TO THE SPECIFIED OFFENSE
19 UNDERLYING THE CRIME OF TERRORISM AS DEFINED IN SECTION 490.25 OF THIS
20 ARTICLE.

21 (D) WHEN A PERSON IS CONVICTED OF CRIMINAL FACILITATION OF TERRORISM
22 PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE FACILITATED IS AN
23 ATTEMPT OR CONSPIRACY TO COMMIT THE CRIME OF TERRORISM AS DEFINED IN
24 SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CRIMINAL FACILITATION OF
25 TERRORISM SHALL BE DEEMED TO BE ONE CATEGORY LOWER THAN THE OFFENSE THE
26 DEFENDANT FACILITATED.

27 S 490.65 CONSPIRACY TO COMMIT TERRORISM.

28 1. A PERSON IS GUILTY OF CONSPIRACY TO COMMIT TERRORISM WHEN, WITH
29 INTENT THAT CONDUCT BE PERFORMED CONSTITUTING A FELONY OFFENSE DEFINED
30 IN THIS ARTICLE, HE OR SHE AGREES WITH ONE OR MORE PERSONS TO ENGAGE IN
31 OR CAUSE THE PERFORMANCE OF SUCH CONDUCT.

32 2. (A) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
33 TERRORISM PURSUANT TO THIS SECTION, AND THE OFFENSE HE OR SHE CONSPIRED
34 TO COMMIT IS A VIOLENT FELONY OFFENSE, THE CRIME OF CONSPIRACY TO COMMIT
35 TERRORISM SHALL BE DEEMED A VIOLENT FELONY OFFENSE.

36 (B) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
37 TERRORISM PURSUANT TO THIS SECTION, OTHER THAN THE CRIME OF TERRORISM AS
38 DEFINED IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO
39 COMMIT TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE
40 LEVEL APPLICABLE TO THE UNDERLYING ARTICLE FOUR HUNDRED NINETY OFFENSE.

41 (C) WHEN A PERSON IS CONVICTED OF THE CRIME OF CONSPIRACY TO COMMIT
42 TERRORISM PURSUANT TO THIS SECTION FOR THE CRIME OF TERRORISM AS DEFINED
43 IN SECTION 490.25 OF THIS ARTICLE, THE CRIME OF CONSPIRACY TO COMMIT
44 TERRORISM SHALL BE DEEMED TO BE THE SAME CATEGORY AS THE OFFENSE LEVEL
45 APPLICABLE TO A CONVICTION FOR THE CRIME OF TERRORISM AS DEFINED IN
46 SECTION 490.25 OF THIS ARTICLE THAT THE DEFENDANT CONSPIRED TO COMMIT.

47 S 14. Section 490.70 of the penal law is amended by adding two new
48 subdivisions 3 and 4 to read as follows:

49 3. WITH RESPECT TO SECTION 490.60 OF THIS ARTICLE, THE PROVISIONS OF
50 SECTION 115.10 OF THIS CHAPTER SHALL APPLY.

51 4. WITH RESPECT TO SECTION 490.65 OF THIS ARTICLE, THE PROVISIONS OF
52 SECTIONS 105.20, 105.25 AND 105.30 OF THIS CHAPTER SHALL APPLY.

53 S 15. Paragraph (b) of subdivision 2 of section 490.25 of the penal
54 law, as added by chapter 300 of the laws of 2001, is amended to read as
55 follows:

1 (b) When a person is convicted of a crime of terrorism pursuant to
2 this section, and the specified offense is a class C, D or E felony
3 offense, the crime of terrorism shall be deemed to be one category high-
4 er than the specified offense the defendant committed, or one category
5 higher than the offense level applicable to the defendant's conviction
6 for an attempt [or conspiracy] to commit the offense, whichever is
7 applicable.

8 S 16. Paragraph (a) of subdivision 3 of section 490.05 of the penal
9 law, as amended by section 7 of part A of chapter 1 of the laws of 2004,
10 is amended to read as follows:

11 (a) "Specified offense" for purposes of this article means a class A
12 felony offense other than an offense as defined in article two hundred
13 twenty, a violent felony offense as defined in section 70.02,
14 manslaughter in the second degree as defined in section 125.15, criminal
15 tampering in the first degree as defined in section 145.20, identity
16 theft in the second degree as defined in section 190.79, identity theft
17 in the first degree as defined in section 190.80, unlawful possession of
18 personal identification information in the second degree as defined in
19 section 190.82, unlawful possession of personal identification informa-
20 tion in the first degree as defined in section 190.83, AGRICULTURAL
21 ADULTERATION IN THE SECOND DEGREE AS DEFINED IN SECTION 280.05, AGRICUL-
22 TURAL ADULTERATION IN THE FIRST DEGREE AS DEFINED IN SECTION 280.10,
23 money laundering in support of terrorism in the fourth degree as defined
24 in section 470.21, money laundering in support of terrorism in the third
25 degree as defined in section 470.22, money laundering in support of
26 terrorism in the second degree as defined in section 470.23, money laun-
27 dering in support of terrorism in the first degree as defined in section
28 470.24 of this chapter, and includes an attempt [or conspiracy] to
29 commit any such offense.

30 S 17. Section 20.20 of the criminal procedure law is amended by adding
31 a new subdivision 4 to read as follows:

32 4. THE OFFENSE WAS COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION
33 OF THE STATE PURSUANT TO SECTION 20.25.

34 S 18. The criminal procedure law is amended by adding a new section
35 20.25 to read as follows:

36 S 20.25 GEOGRAPHICAL JURISDICTION OF OFFENSES; SPECIAL AIRCRAFT JURIS-
37 DICTION OF THE STATE.

38 1. AS USED IN THIS SECTION:

39 (A) "AIRCRAFT" MEANS AN AIRCRAFT OPERATING AS A COMMON CARRIER.

40 (B) "IN FLIGHT" MEANS FROM THE MOMENT ALL EXTERNAL DOORS OF AN
41 AIRCRAFT ARE CLOSED FOLLOWING BOARDING,

42 (I) THROUGH THE MOMENT WHEN ONE EXTERNAL DOOR IS OPENED TO ALLOW
43 PASSENGERS TO LEAVE THE AIRCRAFT, OR

44 (II) UNTIL, IF A FORCED LANDING, COMPETENT AUTHORITIES TAKE OVER
45 RESPONSIBILITY FOR THE AIRCRAFT AND ANY INDIVIDUALS AND PROPERTY ON THE
46 AIRCRAFT.

47 2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 20.30,
48 A PERSON MAY BE CONVICTED IN THE CRIMINAL COURTS OF THIS STATE OF AN
49 OFFENSE COMMITTED EITHER BY HIS OWN CONDUCT, OR BY THE CONDUCT OF ANOTH-
50 ER FOR WHICH HE IS LEGALLY ACCOUNTABLE PURSUANT TO SECTION 20.00 OF THE
51 PENAL LAW, WHEN:

52 (A) THE OFFENSE IS COMMITTED ON BOARD AN AIRCRAFT WHILE IN FLIGHT
53 OUTSIDE THIS STATE; AND

54 (B) THE AIRCRAFT HAS ITS NEXT SCHEDULED DESTINATION WITHIN THIS STATE
55 AND IN FACT NEXT LANDS IN THIS STATE; AND

1 (C) THE PERSON WHO COMMITTED THE OFFENSE IS STILL ON BOARD THE
2 AIRCRAFT WHEN IT LANDS IN THIS STATE.

3 3. EXCEPT AS LIMITED BY SUBDIVISION TWO OF THIS SECTION, THE SPECIAL
4 AIRCRAFT JURISDICTION OF THIS STATE SHALL EXTEND TO AIRCRAFT IN FLIGHT
5 TO THE SAME EXTENT SUCH JURISDICTION MAY BE CLAIMED BY THE UNITED STATES
6 OF AMERICA, OR TO WHATEVER EXTENT MAY BE RECOGNIZED BY THE USAGES AND
7 CUSTOMS OF INTERNATIONAL LAW OR BY ANY AGREEMENT, INTERNATIONAL OR
8 OTHERWISE, TO WHICH THE UNITED STATES OF AMERICA OR THIS STATE MAY BE
9 PARTY.

10 4. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO LIMIT OR RESTRICT IN
11 ANY WAY (A) THE JURISDICTION OF THIS STATE OVER ANY PERSON OR WITH
12 RESPECT TO ANY SUBJECT WITHIN OR WITHOUT THE STATE WHICH JURISDICTION IS
13 EXERCISABLE BY REASON OF CITIZENSHIP, RESIDENCE OR FOR ANY OTHER REASON
14 RECOGNIZED BY LAW; (B) JURISDICTION OR OWNERSHIP OF OR OVER THE AIRSPACE
15 OR LANDS THEREUNDER, WITHIN OR FORMING A PART OF THE BOUNDARIES OF THIS
16 STATE; OR (C) THE CONCURRENT JURISDICTION OF THE UNITED STATES OF AMERI-
17 CA OVER ANY OFFENSE COMMITTED WITHIN THE SPECIAL AIRCRAFT JURISDICTION
18 OF THE UNITES STATES AS DEFINED IN TITLE 49 OF THE UNITED STATES CODE.

19 S 19. Subdivision 1 of section 60.22 of the criminal procedure law is
20 amended to read as follows:

21 1. A defendant may not be convicted of any offense, OTHER THAN AN
22 OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW EXCEPT
23 WHEN PROSECUTED PURSUANT TO SUBPARAGRAPH (XIII) OF PARAGRAPH (A) OF
24 SUBDIVISION ONE OF SECTION 125.27 OF THE PENAL LAW, upon the testimony
25 of an accomplice unsupported by corroborative evidence tending to
26 connect the defendant with the commission of such offense.

27 S 20. Section 690.05 of the criminal procedure law, subdivision 2 as
28 amended by chapter 504 of the laws of 1991 and the opening paragraph of
29 subdivision 2 as amended by chapter 424 of the laws of 1998, is amended
30 to read as follows:

31 S 690.05 Search warrants; in general; definition.

32 1. Under circumstances prescribed in this article, a local criminal
33 court may, upon application of a police officer, a district attorney or
34 other public servant acting in the course of his official duties, issue
35 a search warrant.

36 2. [A] EXCEPT AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION, A
37 search warrant is a court order and process directing a police officer
38 to conduct:

39 (a) a search of designated premises, or of a designated vehicle, or of
40 a designated person, for the purpose of seizing designated property or
41 kinds of property, and to deliver any property so obtained to the court
42 which issued the warrant; or

43 (b) a search of a designated premises for the purpose of searching for
44 and arresting a person who is the subject of: (i) a warrant of arrest
45 issued pursuant to this chapter, a superior court warrant of arrest
46 issued pursuant to this chapter, or a bench warrant for a felony issued
47 pursuant to this chapter, where the designated premises is the dwelling
48 of a third party who is not the subject of the arrest warrant; or

49 (ii) a warrant of arrest issued by any other state or federal court
50 for an offense which would constitute a felony under the laws of this
51 state, where the designated premises is the dwelling of a third party
52 who is not the subject of the arrest warrant.

53 3. WHERE A SEARCH IS TO BE CONDUCTED OF AN ELECTRONIC COMMUNICATION
54 SERVICE OR REMOTE COMPUTING SERVICE, A SEARCH WARRANT IS A COURT ORDER
55 DIRECTING AN EMPLOYEE OF THE ELECTRONIC COMMUNICATION SERVICE OR REMOTE
56 COMPUTING SERVICE TO SEARCH THEIR RECORDS FOR THE DESIGNATED PROPERTY. A

1 SEARCH WARRANT IS PROPERLY SERVED ON AN ELECTRONIC COMMUNICATION SERVICE
2 OR REMOTE COMPUTING SERVICE WHEN IT HAS BEEN DELIVERED BY HAND, OR IN A
3 MANNER REASONABLY ALLOWING FOR PROOF OF DELIVERY IF DELIVERED BY UNITED
4 STATES MAIL, OVERNIGHT DELIVERY SERVICE, OR FACSIMILE TO THE ELECTRONIC
5 COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE THAT IS THE SUBJECT OF
6 THE WARRANT.

7 4. "ELECTRONIC COMMUNICATION SERVICE", "REMOTE COMPUTING SERVICE" AND
8 "ELECTRONIC STORAGE" SHALL BE CONSTRUED IN ACCORDANCE WITH SECTIONS 2510
9 AND 2701 TO 2711 OF TITLE 18 OF THE UNITED STATES CODE, AS AMENDED
10 THROUGH MARCH 1, 2001. THIS SECTION DOES NOT APPLY TO BUSINESSES THAT DO
11 NOT PROVIDE THOSE SERVICES TO THE GENERAL PUBLIC.

12 S 21. The criminal procedure law is amended by adding a new section
13 690.16 to read as follows:

14 S 690.16 SEARCH WARRANT OF A FOREIGN ELECTRONIC COMMUNICATION SERVICE OR
15 A FOREIGN REMOTE COMPUTING SERVICE.

16 UPON A SHOWING OF REASONABLE CAUSE, A COURT SHALL ISSUE A SEARCH
17 WARRANT DIRECTING THAT A FOREIGN ELECTRONIC COMMUNICATION SERVICE
18 PROVIDING SERVICES TO THE GENERAL PUBLIC OR REMOTE COMPUTING SERVICE
19 PROVIDING SERVICES TO THE GENERAL PUBLIC PRODUCE CERTAIN RECORDS,
20 INCLUDING THOSE THAT WOULD REVEAL THE RECIPIENT OR DESTINATION OF COMMU-
21 NICATIONS SENT TO OR FROM CUSTOMERS OF THOSE SERVICES AND THE CONTENT OF
22 THOSE COMMUNICATIONS HELD IN ELECTRONIC STORAGE SO LONG AS;

23 1. THE RECORDS CONSTITUTE EVIDENCE OR TEND TO DEMONSTRATE THAT AN
24 OFFENSE WAS COMMITTED AGAINST THE LAWS OF THE STATE; AND

25 2. THE LAWS OF THE FOREIGN STATE RECOGNIZE THE ISSUANCE OF SUCH
26 WARRANT AND AUTHORIZE THE FOREIGN ELECTRONIC COMMUNICATION SERVICE OR
27 FOREIGN REMOTE COMPUTING SERVICE TO COMPLY WITH IT.

28 S 22. The criminal procedure law is amended by adding a new section
29 690.17 to read as follows:

30 S 690.17 WARRANT OF ANOTHER STATE.

31 A NEW YORK BUSINESS THAT PROVIDES ELECTRONIC COMMUNICATION SERVICES OR
32 REMOTE COMPUTING SERVICES TO THE GENERAL PUBLIC, WHEN SERVED WITH A
33 WARRANT ISSUED BY ANOTHER STATE TO PRODUCE RECORDS THAT WOULD REVEAL THE
34 IDENTITY OF THE CUSTOMERS USING THOSE SERVICES; DATA STORED BY, OR ON
35 BEHALF OF, THE CUSTOMER; THE CUSTOMER'S USAGE OF THOSE SERVICES; THE
36 RECIPIENT OR DESTINATION OF COMMUNICATIONS SENT TO OR FROM THOSE CUSTOM-
37 ERS; OR THE CONTENT OF THOSE COMMUNICATIONS, SHALL PRODUCE THOSE RECORDS
38 AS IF THAT WARRANT HAD BEEN ISSUED BY A NEW YORK COURT.

39 S 23. The criminal procedure law is amended by adding a new section
40 690.18 to read as follows:

41 S 690.18 LIABILITY OF PROVIDERS.

42 NO CAUSE OF ACTION SHALL LIE AGAINST ANY FOREIGN OR NEW YORK ELECTRON-
43 IC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE SUBJECT TO THIS
44 SECTION, ITS OFFICERS, EMPLOYEES, AGENTS, OR OTHER SPECIFIED PERSONS FOR
45 PROVIDING RECORDS, INFORMATION, FACILITIES OR ASSISTANCE IN ACCORDANCE
46 WITH THE TERMS OF A WARRANT ISSUED PURSUANT TO THIS CHAPTER.

47 S 24. Subdivision 4 of section 700.05 of the criminal procedure law,
48 as amended by chapter 744 of the laws of 1988, is amended to read as
49 follows:

50 4. "Justice," except as otherwise provided herein, means any justice
51 of an appellate division of the judicial department in which the eaves-
52 dropping warrant is to be executed, or any justice of the supreme court
53 of the judicial district in which the eavesdropping warrant is to be
54 executed, or any county court judge of the county in which the eaves-
55 dropping warrant is to be executed. When the eavesdropping warrant is to
56 authorize the interception of oral communications occurring in a vehicle

1 or wire communications occurring over a WIRELESS telephone [located in a
2 vehicle], "justice" means any justice of the supreme court of the judi-
3 cial department or any county court judge of the county in which the
4 eavesdropping device is to be installed or connected or of any judicial
5 department or county in which communications are expected to be inter-
6 cepted. When such a justice issues such an eavesdropping warrant, such
7 warrant may be executed and such oral or wire communications may be
8 intercepted anywhere in the state.

9 S 25. Paragraph (b) of subdivision 8 of section 700.05 of the criminal
10 procedure law, as amended by chapter 472 of the laws of 2008, is amended
11 to read as follows:

12 (b) Any of the following felonies: assault in the second degree as
13 defined in section 120.05 of the penal law, assault in the first degree
14 as defined in section 120.10 of the penal law, reckless endangerment in
15 the first degree as defined in section 120.25 of the penal law, promot-
16 ing a suicide attempt as defined in section 120.30 of the penal law,
17 criminally negligent homicide as defined in section 125.10 of the penal
18 law, manslaughter in the second degree as defined in section 125.15 of
19 the penal law, manslaughter in the first degree as defined in section
20 125.20 of the penal law, murder in the second degree as defined in
21 section 125.25 of the penal law, murder in the first degree as defined
22 in section 125.27 of the penal law, abortion in the second degree as
23 defined in section 125.40 of the penal law, abortion in the first degree
24 as defined in section 125.45 of the penal law, rape in the third degree
25 as defined in section 130.25 of the penal law, rape in the second degree
26 as defined in section 130.30 of the penal law, rape in the first degree
27 as defined in section 130.35 of the penal law, criminal sexual act in
28 the third degree as defined in section 130.40 of the penal law, criminal
29 sexual act in the second degree as defined in section 130.45 of the
30 penal law, criminal sexual act in the first degree as defined in section
31 130.50 of the penal law, sexual abuse in the first degree as defined in
32 section 130.65 of the penal law, unlawful imprisonment in the first
33 degree as defined in section 135.10 of the penal law, kidnapping in the
34 second degree as defined in section 135.20 of the penal law, kidnapping
35 in the first degree as defined in section 135.25 of the penal law, labor
36 trafficking as defined in section 135.35 of the penal law, custodial
37 interference in the first degree as defined in section 135.50 of the
38 penal law, coercion in the first degree as defined in section 135.65 of
39 the penal law, criminal trespass in the first degree as defined in
40 section 140.17 of the penal law, burglary in the third degree as defined
41 in section 140.20 of the penal law, burglary in the second degree as
42 defined in section 140.25 of the penal law, burglary in the first degree
43 as defined in section 140.30 of the penal law, criminal mischief in the
44 third degree as defined in section 145.05 of the penal law, criminal
45 mischief in the second degree as defined in section 145.10 of the penal
46 law, criminal mischief in the first degree as defined in section 145.12
47 of the penal law, criminal tampering in the first degree as defined in
48 section 145.20 of the penal law, arson in the fourth degree as defined
49 in section 150.05 of the penal law, arson in the third degree as defined
50 in section 150.10 of the penal law, arson in the second degree as
51 defined in section 150.15 of the penal law, arson in the first degree as
52 defined in section 150.20 of the penal law, grand larceny in the fourth
53 degree as defined in section 155.30 of the penal law, grand larceny in
54 the third degree as defined in section 155.35 of the penal law, grand
55 larceny in the second degree as defined in section 155.40 of the penal
56 law, grand larceny in the first degree as defined in section 155.42 of

1 the penal law, AGGRAVATED COMPUTER INTRUSION AS DEFINED IN SECTION
2 156.25 OF THE PENAL LAW, health care fraud in the fourth degree as
3 defined in section 177.10 of the penal law, health care fraud in the
4 third degree as defined in section 177.15 of the penal law, health care
5 fraud in the second degree as defined in section 177.20 of the penal
6 law, health care fraud in the first degree as defined in section 177.25
7 of the penal law, robbery in the third degree as defined in section
8 160.05 of the penal law, robbery in the second degree as defined in
9 section 160.10 of the penal law, robbery in the first degree as defined
10 in section 160.15 of the penal law, unlawful use of secret scientific
11 material as defined in section 165.07 of the penal law, criminal
12 possession of stolen property in the fourth degree as defined in section
13 165.45 of the penal law, criminal possession of stolen property in the
14 third degree as defined in section 165.50 of the penal law, criminal
15 possession of stolen property in the second degree as defined by section
16 165.52 of the penal law, criminal possession of stolen property in the
17 first degree as defined by section 165.54 of the penal law, trademark
18 counterfeiting in the second degree as defined in section 165.72 of the
19 penal law, trademark counterfeiting in the first degree as defined in
20 section 165.73 of the penal law, forgery in the second degree as defined
21 in section 170.10 of the penal law, forgery in the first degree as
22 defined in section 170.15 of the penal law, criminal possession of a
23 forged instrument in the second degree as defined in section 170.25 of
24 the penal law, criminal possession of a forged instrument in the first
25 degree as defined in section 170.30 of the penal law, criminal
26 possession of forgery devices as defined in section 170.40 of the penal
27 law, falsifying business records in the first degree as defined in
28 section 175.10 of the penal law, tampering with public records in the
29 first degree as defined in section 175.25 of the penal law, offering a
30 false instrument for filing in the first degree as defined in section
31 175.35 of the penal law, issuing a false certificate as defined in
32 section 175.40 of the penal law, criminal diversion of prescription
33 medications and prescriptions in the second degree as defined in section
34 178.20 of the penal law, criminal diversion of prescription medications
35 and prescriptions in the first degree as defined in section 178.25 of
36 the penal law, residential mortgage fraud in the fourth degree as
37 defined in section 187.10 of the penal law, residential mortgage fraud
38 in the third degree as defined in section 187.15 of the penal law, resi-
39 dential mortgage fraud in the second degree as defined in section 187.20
40 of the penal law, residential mortgage fraud in the first degree as
41 defined in section 187.25 of the penal law, escape in the second degree
42 as defined in section 205.10 of the penal law, escape in the first
43 degree as defined in section 205.15 of the penal law, absconding from
44 temporary release in the first degree as defined in section 205.17 of
45 the penal law, promoting prison contraband in the first degree as
46 defined in section 205.25 of the penal law, hindering prosecution in the
47 second degree as defined in section 205.60 of the penal law, hindering
48 prosecution in the first degree as defined in section 205.65 of the
49 penal law, sex trafficking as defined in section 230.34 of the penal
50 law, criminal possession of a weapon in the third degree as defined in
51 subdivisions two, three and five of section 265.02 of the penal law,
52 criminal possession of a weapon in the second degree as defined in
53 section 265.03 of the penal law, criminal possession of a weapon in the
54 first degree as defined in section 265.04 of the penal law, manufacture,
55 transport, disposition and defacement of weapons and dangerous instru-
56 ments and appliances defined as felonies in subdivisions one, two, and

1 three of section 265.10 of the penal law, sections 265.11, 265.12 and
2 265.13 of the penal law, or prohibited use of weapons as defined in
3 subdivision two of section 265.35 of the penal law, relating to firearms
4 and other dangerous weapons, [or] failure to disclose the origin of a
5 recording in the first degree as defined in section 275.40 of the penal
6 law, AGRICULTURAL ADULTERATION IN THE SECOND DEGREE AS DEFINED IN
7 SECTION 280.05 OF THE PENAL LAW, OR AGRICULTURAL ADULTERATION IN THE
8 FIRST DEGREE AS DEFINED IN SECTION 280.10 OF THE PENAL LAW;

9 S 26. Paragraph (o) of subdivision 8 of section 700.05 of the criminal
10 procedure law, as amended by chapter 489 of the laws of 2000, is amended
11 to read as follows:

12 (o) Money laundering in the first degree, as defined in section 470.20
13 of the penal law, money laundering in the second degree as defined in
14 section 470.15 of the penal law, money laundering in the third degree as
15 defined in section 470.10 of such law, [and] money laundering in the
16 fourth degree as defined in section 470.05 of such law, MONEY LAUNDERING
17 IN SUPPORT OF TERRORISM IN THE FOURTH DEGREE AS DEFINED IN SECTION
18 470.21 OF SUCH LAW, MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE
19 THIRD DEGREE AS DEFINED IN SECTION 470.22 OF SUCH LAW, MONEY LAUNDERING
20 IN SUPPORT OF TERRORISM IN THE SECOND DEGREE AS DEFINED IN SECTION
21 470.23 OF SUCH LAW, AND MONEY LAUNDERING IN SUPPORT OF TERRORISM IN THE
22 FIRST DEGREE AS DEFINED IN SECTION 470.24 OF SUCH LAW, where the proper-
23 ty involved represents or is represented to be the proceeds of specified
24 criminal conduct which itself constitutes a designated offense within
25 the meaning of this subdivision, OR THE PROCEEDS OF AN ACT OF TERRORISM
26 AS DEFINED IN SUBDIVISION ONE OF SECTION 490.05 OF SUCH LAW, OR A MONE-
27 TARY INSTRUMENT GIVEN, RECEIVED OR INTENDED TO BE USED TO SUPPORT A
28 VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF SUCH LAW.

29 S 27. Paragraph (q) of subdivision 8 of section 700.05 of the criminal
30 procedure law, as amended by section 3 of part A of chapter 1 of the
31 laws of 2004, is amended to read as follows:

32 (q) Soliciting or providing support for an act of terrorism in the
33 second degree as defined in section 490.10 of the penal law, soliciting
34 or providing support for an act of terrorism in the first degree as
35 defined in section 490.15 of the penal law, making a terroristic threat
36 as defined in section 490.20 of the penal law, crime of terrorism as
37 defined in section 490.25 of the penal law, CRIME OF CYBER-TERRORISM AS
38 DEFINED IN SECTION 490.28 OF THE PENAL LAW, hindering prosecution of
39 terrorism in the second degree as defined in section 490.30 of the penal
40 law, hindering prosecution of terrorism in the first degree as defined
41 in section 490.35 of the penal law, criminal possession of a chemical
42 weapon or biological weapon in the third degree as defined in section
43 490.37 of the penal law, criminal possession of a chemical weapon or
44 biological weapon in the second degree as defined in section 490.40 of
45 the penal law, criminal possession of a chemical weapon or biological
46 weapon in the first degree as defined in section 490.45 of the penal
47 law, criminal use of a chemical weapon or biological weapon in the third
48 degree as defined in section 490.47 of the penal law, criminal use of a
49 chemical weapon or biological weapon in the second degree as defined in
50 section 490.50 of the penal law, and criminal use of a chemical weapon
51 or biological weapon in the first degree as defined in section 490.55 of
52 the penal law.

53 S 28. Subdivision 2 of section 40.30 of the criminal procedure law is
54 amended by adding a new paragraph (c) to read as follows:

55 (C) SUCH PROSECUTION OCCURRED IN A COURT OF ANY JURISDICTION WITHIN
56 THE UNITED STATES OTHER THAN A COURT OF THIS STATE, AND THE PRESENT

1 PROSECUTION IS FOR AN OFFENSE DEFINED IN ARTICLE FOUR HUNDRED NINETY OF
2 THE PENAL LAW.

3 S 29. Subdivision 9 of section 40.50 of the criminal procedure law, as
4 added by chapter 516 of the laws of 1986, is amended to read as follows:

5 9. A person who has been previously prosecuted for racketeering pursu-
6 ant to federal law, or any comparable offense pursuant to the law of
7 another state may not be subsequently prosecuted for enterprise
8 corruption based upon a pattern of criminal activity that specifically
9 includes a criminal act that was also specifically included in the
10 pattern of racketeering activity upon which the prior charge of racke-
11 teering was based; provided, however, that this section shall not be
12 construed to prohibit the subsequent prosecution of any other offense
13 specifically included in or otherwise a part of a pattern of racketeer-
14 ing activity alleged in any such prior prosecution for racketeering or
15 other comparable offense, AND SHALL NOT PROHIBIT THE SUBSEQUENT PROSE-
16 CUTION OF ANY OFFENSE UNDER ARTICLE FOUR HUNDRED NINETY OF THE PENAL
17 LAW.

18 S 30. Section 210.40 of the criminal procedure law is amended by
19 adding a new subdivision 2-a to read as follows:

20 2-A. IN ADDITION TO THE GROUNDS SPECIFIED IN SUBDIVISION ONE OF THIS
21 SECTION, UPON ANY MOTION TO DISMISS AN INDICTMENT OR ANY COUNT THEREOF
22 ALLEGING A VIOLATION OF ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW,
23 THE COURT MUST ALSO CONSIDER WHETHER THE DEFENDANT PREVIOUSLY HAS BEEN
24 PROSECUTED IN A COURT OF ANY OTHER JURISDICTION WITHIN THE UNITED STATES
25 BASED UPON THE SAME ACT OR CRIMINAL TRANSACTION.

26 S 31. Section 710.70 of the criminal procedure law is amended by
27 adding a new subdivision 4 to read as follows:

28 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN A CRIMINAL ACTION IN
29 WHICH THE DEFENDANT IS ACCUSED OF AN OFFENSE DEFINED IN ARTICLE FOUR
30 HUNDRED NINETY OF THE PENAL LAW, THE COURT MAY NOT SUPPRESS EVIDENCE OR
31 ORDER THAT EVIDENCE BE EXCLUDED ON ACCOUNT OF A VIOLATION OF ANY RIGHT
32 ACCORDED BY THE FOURTH AMENDMENT TO THE CONSTITUTION OF THE UNITED
33 STATES OR SECTION TWELVE OF ARTICLE ONE OF THE CONSTITUTION OF THIS
34 STATE, IF THE COURT FINDS AFTER A HEARING THAT THE LAW ENFORCEMENT OFFI-
35 CER OR OFFICERS ACTED IN GOOD FAITH.

36 S 32. The criminal procedure law is amended by adding a new section
37 700.75 to read as follows:

38 S 700.75 ROVING INTERCEPTIONS.

39 IN ANY CASE IN WHICH THE DESIGNATED OFFENSE IS DEFINED IN PARAGRAPH
40 (Q) OF SUBDIVISION EIGHT OF SECTION 700.05 OF THIS ARTICLE, THE REQUIRE-
41 MENTS OF THIS ARTICLE RELATING TO THE SPECIFICATION OF THE FACILITIES
42 FROM WHICH, OR THE PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED
43 DO NOT APPLY IF:

44 1. IN THE CASE OF AN APPLICATION FOR THE INTERCEPTION OF AN ORAL
45 COMMUNICATION:

46 (A) THE APPLICATION CONTAINS A FULL AND COMPLETE STATEMENT AS TO WHY
47 SUCH SPECIFICATION IS NOT PRACTICAL AND IDENTIFIES THE PERSON COMMITTING
48 THE OFFENSE WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED; AND (B) THE
49 COURT FINDS THAT SUCH SPECIFICATION IS NOT PRACTICAL; OR

50 2. IN THE CASE OF AN APPLICATION WITH RESPECT TO INTERCEPTION OF A
51 WIRE OR ELECTRONIC COMMUNICATION:

52 (A) THE APPLICATION IDENTIFIES THE PERSON BELIEVED TO BE COMMITTING
53 THE OFFENSE AND WHOSE COMMUNICATIONS ARE TO BE INTERCEPTED AND THE
54 APPLICANT MAKES A SHOWING OF A PURPOSE, ON THE PART OF THAT PERSON, TO
55 THWART INTERCEPTION BY CHANGING FACILITIES; AND (B) THE COURT FINDS THAT
56 SUCH PURPOSE HAS BEEN ADEQUATELY SHOWN.

1 3. INTERCEPTION OF COMMUNICATIONS UNDER AN ORDER ISSUED PURSUANT TO
2 THIS SECTION SHALL NOT BEGIN UNTIL THE FACILITIES FROM WHICH, OR THE
3 PLACE WHERE, THE COMMUNICATION IS TO BE INTERCEPTED IS ASCERTAINED BY
4 THE PERSON IMPLEMENTING THE INTERCEPTION ORDER. A PROVIDER OF WIRE OR
5 ELECTRONIC COMMUNICATIONS SERVICE THAT HAS RECEIVED AN ORDER AS PROVIDED
6 FOR IN SUBDIVISION TWO OF THIS SECTION MAY MOVE THE COURT TO MODIFY OR
7 QUASH THE ORDER ON THE GROUNDS THAT ITS ASSISTANCE WITH RESPECT TO THE
8 INTERCEPTION CANNOT BE PERFORMED IN A TIMELY OR REASONABLE FASHION. THE
9 COURT, UPON NOTICE TO THE APPLICANT, SHALL DECIDE SUCH MOTION EXPE-
10 DITIOUSLY.

11 S 33. Subdivision 6 of section 1310 of the civil practice law and
12 rules, as added by chapter 669 of the laws of 1984, is amended to read
13 as follows:

14 6. "Pre-conviction forfeiture crime" means only a felony defined in
15 article two hundred twenty or section 221.30 [or], 221.55, 470.21,
16 470.22, 470.23, OR 470.24 of the penal law.

17 S 34. Section 1311-a of the civil practice law and rules is amended by
18 adding a new subdivision 7 to read as follows:

19 7. A SUBPOENA DUCES TECUM ISSUED UNDER THIS SECTION OR ANY OTHER
20 PROVISION OF LAW IN AID OF A CIVIL FORFEITURE ACTION MAY REQUIRE THE
21 PRODUCTION OF RECORDS BY ANY PERSON OR ENTITY PRESENT IN THE STATE OR
22 DOING BUSINESS IN THE STATE PERTAINING TO PROPERTY LOCATED WITHIN OR
23 WITHOUT THE STATE.

24 S 35. The opening paragraph of section 1313 of the civil practice law
25 and rules is designated subdivision 1 and a new subdivision 2 is added
26 to read as follows:

27 2. ANY PERSON OR ENTITY PRESENT IN THE STATE OR DOING BUSINESS IN THE
28 STATE AND IN POSSESSION OR CONTROL OF PROPERTY AGAINST WHICH A FORFEI-
29 TURE JUDGMENT MAY BE ENFORCED MUST COMPLY WITH A TEMPORARY RESTRAINING
30 ORDER OR PRELIMINARY INJUNCTION ISSUED UNDER THIS ARTICLE WITH RESPECT
31 TO PROPERTY LOCATED WITHIN OR WITHOUT THE STATE. A CLAIMING AUTHORITY
32 MAY SEEK AN ORDER DIRECTING THAT SUCH PERSON OR ENTITY TRANSFER THE
33 PROPERTY TO THE CLAIMING AGENT TO BE HELD DURING THE PENDENCY OF THE
34 ACTION.

35 S 36. The tax law is amended by adding a new section 33 to read as
36 follows:

37 S 33. DISCLOSURE OF TAX RETURNS OR REPORTS OF PARTICULARS THEREIN IN
38 INVESTIGATION OR PROSECUTION OF STATE OR FEDERAL TERRORISM OFFENSES;
39 SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (A) DISCLOSURE OF TAX
40 RETURNS OR REPORTS OR PARTICULARS THEREIN IN CASES INVOLVING STATE OR
41 FEDERAL TERRORISM OFFENSES. (1) NOTWITHSTANDING ANY PROVISION OF LAW TO
42 THE CONTRARY, THE COMMISSIONER MAY DIVULGE, MAKE KNOWN OR DISCLOSE
43 RETURNS OR REPORTS OR PARTICULARS SET FORTH OR DISCLOSED IN ANY RETURN
44 OR REPORT REQUIRED UNDER ANY TAX OR OTHER IMPOSITION ADMINISTERED BY THE
45 COMMISSIONER UPON THE GRANT OF AN EX PARTE ORDER ISSUED BY A SUPERIOR
46 COURT UNDER PARAGRAPH TWO OF THIS SUBDIVISION, OR IN RESPONSE TO A GRAND
47 JURY SUBPOENA OR UPON A PARTICULARIZED WRITTEN REQUEST OF THE ATTORNEY
48 GENERAL, A STATE DISTRICT ATTORNEY, A FEDERAL PROSECUTOR, AN INDIVIDUAL
49 SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR ANY OTHER ATTORNEY REPRESENTING
50 THE STATE OR THE UNITED STATES, WHICH STATES THAT SUCH INFORMATION IS
51 SOUGHT IN CONNECTION WITH AN INVESTIGATION OR PROSECUTION OF AN ACT OR
52 ACTS IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE
53 FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE AND
54 THE INFORMATION IS OR MAY BE RELEVANT TO THE COMMISSION OF SUCH ACT OR
55 ACTS. ANY SUCH RETURN OR REPORT OR PARTICULARS MAY BE REDISCLOSED TO

1 FEDERAL, STATE OR LOCAL LAW ENFORCEMENT OFFICIALS PARTICIPATING IN THE
2 INVESTIGATION OF TERRORIST ACTS OR THREATS.

3 (2) SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR,
4 INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY
5 REPRESENTING THE STATE OR THE UNITED STATES MAY MAKE AN APPLICATION TO A
6 SUPERIOR COURT FOR THE ORDER REFERRED TO IN PARAGRAPH ONE OF THIS SUBDI-
7 VISION. UPON SUCH APPLICATION, SUCH COURT MAY GRANT SUCH ORDER IF IT
8 DETERMINES ON THE BASIS OF THE FACTS SUBMITTED BY THE APPLICANT THAT:

9 (A) THERE IS REASONABLE CAUSE TO BELIEVE THAT A CRIME IN VIOLATION OF
10 SECTION 470.21, 470.22, 470.23 OR 470.24 OR ARTICLE FOUR HUNDRED NINETY
11 OF THE PENAL LAW OR A FEDERAL TERRORISM OFFENSE HAS BEEN COMMITTED;

12 (B) THERE IS REASONABLE CAUSE TO BELIEVE THAT SUCH RETURN OR REPORT OR
13 PARTICULARS ARE OR MAY BE RELEVANT TO A MATTER RELATING TO THE COMMIS-
14 SION OF SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
15 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
16 TERRORISM OFFENSE; AND

17 (C) SUCH RETURN OR REPORT OR PARTICULARS ARE SOUGHT EXCLUSIVELY FOR
18 USE IN THE STATE OR A FEDERAL CRIMINAL INVESTIGATION OR PROCEEDING
19 CONCERNING SUCH CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
20 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
21 TERRORISM OFFENSE, AND THE INFORMATION SOUGHT TO BE DISCLOSED CANNOT
22 REASONABLY BE OBTAINED, UNDER THE CIRCUMSTANCES, FROM ANOTHER SOURCE.

23 (3) IF ANY PERSON SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION HAS
24 RECEIVED ANY SUCH RETURN OR REPORT OR PARTICULARS PURSUANT TO THE
25 PROVISIONS OF THIS SUBDIVISION, THEN SUCH PERSON MAY DISCLOSE TO THE
26 COMMISSIONER ANY INFORMATION DISCOVERED DURING THE COURSE OF ANY INVE-
27 TIGATION OR JUDICIAL PROCEEDING REFERRED TO IN THIS SUBDIVISION, WHICH
28 MAY RELATE TO A VIOLATION OR VIOLATIONS OF THE PROVISIONS OF ANY TAX OR
29 OTHER IMPOSITION ADMINISTERED BY THE COMMISSIONER.

30 (4) IF SUCH ATTORNEY GENERAL, DISTRICT ATTORNEY, FEDERAL PROSECUTOR,
31 INDIVIDUAL SPECIFIED IN 26 U.S.C. 6103(I)(1)(B) OR OTHER ATTORNEY
32 REPRESENTING THE STATE OR THE UNITED STATES HAS OBTAINED ANY SUCH
33 RETURNS OR REPORTS OR PARTICULARS PURSUANT TO THE PROVISIONS OF THIS
34 SUBDIVISION, THEN SUCH RETURNS OR REPORTS OR PARTICULARS MAY BE ADMITTED
35 INTO EVIDENCE AND DISCLOSED IN ANY JUDICIAL PROCEEDING PERTAINING TO
36 ENFORCEMENT OF A CRIME IN VIOLATION OF SECTION 470.21, 470.22, 470.23 OR
37 470.24 OR ARTICLE FOUR HUNDRED NINETY OF THE PENAL LAW OR A FEDERAL
38 TERRORISM OFFENSE OR RELATED CIVIL FORFEITURE (NOT INVOLVING TAX ADMIN-
39 ISTRATION) TO WHICH THE STATE OR THE UNITED STATES IS A PARTY.

40 (B) THIS SECTION SHALL NOT APPLY TO ANY DISCLOSURE OF THE RETURNS OR
41 REPORTS OR PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION TO
42 THE EXTENT THAT SUCH DISCLOSURE IS PERMITTED OR AUTHORIZED BY ANY OTHER
43 PROVISION OF THIS CHAPTER OR ANY PROVISION OF ANY TAX OR OTHER IMPOSI-
44 TION ADMINISTERED BY THE COMMISSIONER.

45 (C) SECRECY REQUIREMENT AND PENALTY FOR VIOLATION. (1) EXCEPT IN
46 ACCORDANCE WITH PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW,
47 IT SHALL BE UNLAWFUL FOR ANY PERSON TO WHOM THE RETURNS OR REPORTS OR
48 PARTICULARS DESCRIBED IN SUBDIVISION (A) OF THIS SECTION ARE DISCLOSED
49 IN ACCORDANCE WITH THIS SECTION TO DIVULGE OR MAKE KNOWN IN ANY MANNER
50 SUCH INCOME OR PARTICULARS FOR USES NOT AUTHORIZED UNDER THIS SECTION.

51 (2) CROSS-REFERENCE. FOR CRIMINAL PENALTIES, SEE ARTICLE THIRTY-SEVEN
52 OF THIS CHAPTER.

53 S 37. Section 1825 of the tax law, as amended by section 2 of part E
54 of chapter 25 of the laws of 2009, is amended to read as follows:

55 S 1825. Violation of secrecy provisions of the tax law.--Any person
56 who violates the provisions of subdivision (b) of section twenty-one AS

1 ADDED BY CHAPTER 686 OF THE LAWS OF 2003, SECTION THIRTY-THREE, subdivi-
2 sion one of section two hundred two, subdivision eight of section two
3 hundred eleven, subdivision (a) of section three hundred fourteen,
4 subdivision one or two of section four hundred thirty-seven, section
5 four hundred eighty-seven, subdivision one or two of section five
6 hundred fourteen, subsection (e) of section six hundred ninety-seven,
7 subsection (a) of section nine hundred ninety-four, subdivision (a) of
8 section eleven hundred forty-six, section twelve hundred eighty-seven,
9 subdivision (a) of section fourteen hundred eighteen, subsection (a) of
10 section fourteen hundred sixty-seven, subdivision (a) of section fifteen
11 hundred eighteen, subdivision (a) of section fifteen hundred fifty-five
12 of this chapter, and subdivision (e) of section 11-1797 of the adminis-
13 trative code of the city of New York shall be guilty of a misdemeanor.

14 S 38. Subdivision 1 of section 21 of the executive law, as amended by
15 chapter 346 of the laws of 2002, is amended to read as follows:

16 1. There is hereby created in the executive department a disaster
17 preparedness commission consisting of the commissioners of transporta-
18 tion, health, division of criminal justice services, education, social
19 services, economic development, agriculture and markets, housing and
20 community renewal, general services, labor, environmental conservation,
21 mental health, the president of the New York state energy research and
22 development authority, the superintendents of state police, insurance,
23 banking, the secretary of state, the state fire administrator, the chair
24 of the public service commission, the adjutant general, the director of
25 the state office for technology, the chairman of the thruway authority,
26 THE DIRECTOR OF THE OFFICE OF HOMELAND SECURITY, the chief professional
27 officer of the state coordinating chapter of the American Red Cross and
28 three additional members, to be appointed by the governor, two of whom
29 shall be chief executives. The governor shall designate the chair of the
30 commission. The members of the commission, except those who serve ex
31 officio, shall be allowed their actual and necessary expenses incurred
32 in the performance of their duties under this article but shall receive
33 no additional compensation for services rendered pursuant to this arti-
34 cle.

35 S 39. If any item, clause, sentence, subparagraph, subdivision,
36 section or other part of this act, or the application thereof to any
37 person or circumstances shall be held to be invalid, such holding shall
38 not affect, impair or invalidate the remainder of this act, or the
39 application of such section or part of a section held invalid, to any
40 other person or circumstances, but shall be confined in its operation to
41 the item, clause, sentence, subparagraph, subdivision, section or other
42 part of this act directly involved in such holding, or to the person and
43 circumstances therein involved.

44 S 40. This act shall take effect immediately, provided, that:

45 (a) sections one, two, three, four and five of this act shall take
46 effect on the first of November next succeeding the date on which this
47 act shall have become a law;

48 (b) the amendments to paragraph (a) of subdivision 1 of section 460.10
49 of the penal law made by section eight of this act shall take effect on
50 the same date and in the same manner as section 30 of part AAA of chap-
51 ter 56 of the laws of 2009, takes effect;

52 (c) the provisions of section 700.75 of the criminal procedure law, as
53 added by section thirty-two of this act, and the provisions of section
54 33 of the tax law, as added by section thirty-six of this act, shall
55 expire and be deemed repealed two years after the effective date of this
56 act; and

1 (d) the amendments to section 1825 of the tax law made by section
2 thirty-seven of this act shall take effect on the same date and in the
3 same manner as section 2 of part E of chapter 25 of the laws of 2009,
4 takes effect.