

9090

2009-2010 Regular Sessions

I N A S S E M B L Y

July 27, 2009

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

AN ACT to amend the penal law, the executive law and the general business law, in relation to aggravated unlawful use of and the sale, delivery and transfer of body armor

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

1 Section 1. The penal law is amended by adding a new section 270.21 to
2 read as follows:

3 S 270.21 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR.

4 A PERSON IS GUILTY OF AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR WHEN
5 ACTING EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS HE COMMITS ANY
6 VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THIS CHAPTER WHILE
7 POSSESSING A FIREARM, RIFLE OR SHOTGUN AND IN THE COURSE OF AND IN
8 FURTHERANCE OF SUCH CRIME HE, WHILE WEARING BODY ARMOR, INJURES OR KILLS
9 A POLICE OFFICER.

10 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IS A CLASS D FELONY.

11 S 2. Subdivision 2 of section 70.25 of the penal law, as amended by
12 chapter 56 of the laws of 1984, is amended to read as follows:

13 2. When more than one sentence of imprisonment is imposed on a person
14 for two or more offenses committed through a single act or omission, or
15 through an act or omission which in itself constituted one of the
16 offenses and also was a material element of the other, the sentences,
17 except if one or more of such sentences is for a violation of section
18 270.20 OR 270.21 of this chapter, must run concurrently.

19 S 3. Section 10.00 of the penal law is amended by adding a new subdi-
20 vision 21 to read as follows:

21 21. "BODY ARMOR" MEANS ANY VEST OR ARTICLE OF CLOTHING MADE OF BULLET
22 RESISTANT MATERIAL SUCH AS KEVLAR AND AUGMENTED BY CERAMIC CHEST PLATES.

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

LBD11993-02-9

1 S 4. Paragraph (d) of subdivision 7 of section 995 of the executive
2 law, as amended by chapter 2 of the laws of 2006, is amended to read as
3 follows:

4 (d) any of the following felonies, or an attempt thereof where such
5 attempt is a felony offense:

6 aggravated assault upon a person less than eleven years old, as
7 defined in section 120.12 of the penal law; menacing in the first
8 degree, as defined in section 120.13 of the penal law; reckless endan-
9 germent in the first degree, as defined in section 120.25 of the penal
10 law; stalking in the second degree, as defined in section 120.55 of the
11 penal law; criminally negligent homicide, as defined in section 125.10
12 of the penal law; vehicular manslaughter in the second degree, as
13 defined in section 125.12 of the penal law; vehicular manslaughter in
14 the first degree, as defined in section 125.13 of the penal law;
15 persistent sexual abuse, as defined in section 130.53 of the penal law;
16 aggravated sexual abuse in the fourth degree, as defined in section
17 130.65-a of the penal law; female genital mutilation, as defined in
18 section 130.85 of the penal law; facilitating a sex offense with a
19 controlled substance, as defined in section 130.90 of the penal law;
20 unlawful imprisonment in the first degree, as defined in section 135.10
21 of the penal law; custodial interference in the first degree, as defined
22 in section 135.50 of the penal law; criminal trespass in the first
23 degree, as defined in section 140.17 of the penal law; criminal tamper-
24 ing in the first degree, as defined in section 145.20 of the penal law;
25 tampering with a consumer product in the first degree, as defined in
26 section 145.45 of the penal law; robbery in the third degree as defined
27 in section 160.05 of the penal law; identity theft in the second degree,
28 as defined in section 190.79 of the penal law; identity theft in the
29 first degree, as defined in section 190.80 of the penal law; promoting
30 prison contraband in the first degree, as defined in section 205.25 of
31 the penal law; tampering with a witness in the third degree, as defined
32 in section 215.11 of the penal law; tampering with a witness in the
33 second degree, as defined in section 215.12 of the penal law; tampering
34 with a witness in the first degree, as defined in section 215.13 of the
35 penal law; criminal contempt in the first degree, as defined in subdivi-
36 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated
37 criminal contempt, as defined in section 215.52 of the penal law; bail
38 jumping in the second degree, as defined in section 215.56 of the penal
39 law; bail jumping in the first degree, as defined in section 215.57 of
40 the penal law; patronizing a prostitute in the second degree, as defined
41 in section 230.05 of the penal law; patronizing a prostitute in the
42 first degree, as defined in section 230.06 of the penal law; promoting
43 prostitution in the second degree, as defined in section 230.30 of the
44 penal law; promoting prostitution in the first degree, as defined in
45 section 230.32 of the penal law; compelling prostitution, as defined in
46 section 230.33 of the penal law; disseminating indecent materials to
47 minors in the second degree, as defined in section 235.21 of the penal
48 law; disseminating indecent materials to minors in the first degree, as
49 defined in section 235.22 of the penal law; riot in the first degree, as
50 defined in section 240.06 of the penal law; criminal anarchy, as defined
51 in section 240.15 of the penal law; aggravated harassment of an employee
52 by an inmate, as defined in section 240.32 of the penal law; unlawful
53 surveillance in the second degree, as defined in section 250.45 of the
54 penal law; unlawful surveillance in the first degree, as defined in
55 section 250.50 of the penal law; endangering the welfare of a vulnerable
56 elderly person in the second degree, as defined in section 260.32 of the

1 penal law; endangering the welfare of a vulnerable elderly person in the
2 first degree, as defined in section 260.34 of the penal law; use of a
3 child in a sexual performance, as defined in section 263.05 of the penal
4 law; promoting an obscene sexual performance by a child, as defined in
5 section 263.10 of the penal law; possessing an obscene sexual perform-
6 ance by a child, as defined in section 263.11 of the penal law; promot-
7 ing a sexual performance by a child, as defined in section 263.15 of the
8 penal law; possessing a sexual performance by a child, as defined in
9 section 263.16 of the penal law; criminal possession of a weapon in the
10 third degree, as defined in section 265.02 of the penal law; criminal
11 sale of a firearm in the third degree, as defined in section 265.11 of
12 the penal law; criminal sale of a firearm to a minor, as defined in
13 section 265.16 of the penal law; unlawful wearing of a body vest, as
14 defined in section 270.20 of the penal law; AGGRAVATED UNLAWFUL WEARING
15 OF BODY ARMOR, AS DEFINED IN SECTION 270.21 OF THE PENAL LAW; hate
16 crimes as defined in section 485.05 of the penal law; and crime of
17 terrorism, as defined in section 490.25 of the penal law;

18 S 5. The executive law is amended by adding a new section 100-a to
19 read as follows:

20 S 100-A. CENTRAL STATE REGISTRY OF BODY ARMOR SALES. 1. THE SECRETARY
21 OF STATE SHALL MAINTAIN A COMPUTERIZED REGISTRY OF ALL INDIVIDUALS WHO
22 SELL, DELIVER OR TRANSFER FOR BODY ARMOR PURSUANT TO THE PROVISIONS OF
23 SECTION THREE HUNDRED NINETY-SIX-EEE OF THE GENERAL BUSINESS LAW. THE
24 REGISTRY SHALL INCLUDE THE NAME, ADDRESS AND BUSINESS LICENSE OR REGIS-
25 TRATION NUMBER AS WELL AS THE IDENTIFYING BAR CODE OR OTHER CODE ASSOCI-
26 ATED WITH THE BODY ARMOR.

27 2. THE SECRETARY OF STATE SHALL MAINTAIN ALL RECORDS COLLECTED FOR A
28 PERIOD OF FIVE YEARS. EVERY DISTRIBUTOR OR DEALER OF BODY ARMOR SHALL
29 FILE WITH THE SECRETARY, ON A MONTHLY BASIS, A REPORT, STATING ALL THE
30 SALES, DELIVERIES AND TRANSFERS OF BODY ARMOR IN SUCH FORM AND ON SUCH
31 MEDIA AS APPROVED FOR SUCH PURPOSE BY THE SECRETARY.

32 S 6. The general business law is amended by adding a new section 396-
33 eee to read as follows:

34 S 396-EEE. SALE OF BODY ARMOR; REGISTRY. (1) NO PERSON, FIRM OR CORPO-
35 RATION ENGAGED IN THE RETAIL BUSINESS OF SELLING BODY ARMOR, AS SUCH
36 TERM IS DEFINED IN SECTION 10.00 OF THE PENAL LAW, SHALL SELL, DELIVER
37 OR TRANSFER ANY SUCH BODY ARMOR TO ANOTHER PERSON UNLESS THE TRANSFEREE
38 IS PROVIDED AT THE TIME OF SALE, DELIVERY OR TRANSFER, WITH A LABEL
39 CONTAINING THE QUOTED LANGUAGE SPECIFIED IN SUBDIVISION TWO OF THIS
40 SECTION EITHER AFFIXED TO SUCH BODY ARMOR OR PLACED IN THE CONTAINER IN
41 WHICH SUCH BODY ARMOR IS SOLD, DELIVERED OR TRANSFERRED.

42 (2) EVERY PERSON, FIRM OR CORPORATION ENGAGED IN THE RETAIL BUSINESS
43 OF SELLING BODY ARMOR, AS SUCH TERM IS DEFINED IN SECTION 10.00 OF THE
44 PENAL LAW, SHALL, IN THE PLACE WHERE SUCH BODY ARMOR ARE DISPLAYED OR
45 TRANSFERRED TO THE PURCHASER, POST A NOTICE CONSPICUOUSLY STATING IN
46 BOLD PRINT THAT: "THE PURCHASE, RECEIPT OR TRANSFER OF A BODY ARMOR IN
47 NEW YORK STATE IS REGISTERED IN THE BODY ARMOR REGISTRY MAINTAINED BY
48 THE DEPARTMENT OF STATE."

49 (3) ANY PERSON, FIRM OR CORPORATION WHO FAILS TO REGISTER EACH SALE,
50 DELIVERY OR TRANSFER OF BODY ARMOR AND COMPLY WITH THE PROVISIONS OF
51 THIS SECTION SHALL BE GUILTY OF A VIOLATION PUNISHABLE AS PROVIDED IN
52 THE PENAL LAW. ANY PERSON, FIRM, OR CORPORATION WHO FAILS TO COMPLY WITH
53 THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED OF
54 A VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR,
55 PUNISHABLE AS PROVIDED IN THE PENAL LAW.

1 S 7. This act shall take effect on the first of November next succeed-
2 ing the date on which it shall have become a law; provided, however,
3 that effective immediately, the addition, amendment and/or repeal of any
4 rule or regulation necessary for the implementation of this act on its
5 effective date are authorized and directed to be made and completed on
6 or before such effective date.