

2009-2010 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2009

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Introduced by Sen. LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to prohibiting the use of unmarked police vehicles

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

1     Section 1. The vehicle and traffic law is amended by adding a new  
2     section 1102-a to read as follows:  
3     S 1102-A. USE OF UNMARKED POLICE VEHICLES PROHIBITED. (A) NOTWITH-  
4     STANDING ANY OTHER LAW, RULE, OR REGULATION TO THE CONTRARY, NO UNMARKED  
5     OR CONCEALED IDENTITY POLICE VEHICLE SHALL BE USED BY ANY POLICE OFFICER  
6     TO ROUTINELY STOP OR APPREHEND OPERATORS OF MOTOR VEHICLES FOR  
7     VIOLATIONS OF THIS CHAPTER, AND NO GOVERNMENTAL ENTITY SHALL REQUIRE OR  
8     PERMIT THE USE OF SUCH VEHICLES FOR SUCH PURPOSE, ON AND AFTER NOVEMBER  
9     FIRST, TWO THOUSAND TEN; PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN  
10    THIS SECTION SHALL BE DEEMED TO PROHIBIT THE USE OF SUCH VEHICLES TO  
11    STOP OR APPREHEND OPERATORS OF MOTOR VEHICLES FOR SUCH OFFENSES, BUT  
12    ONLY UNDER CIRCUMSTANCES WHICH ARE EXCEPTIONAL, NECESSARY, AND WHICH  
13    PRESENT A SUBSTANTIAL THREAT TO PUBLIC SAFETY. A POLICE VEHICLE SHALL BE  
14    DEEMED TO BE UNMARKED OR HAVE A CONCEALED IDENTITY UNLESS IT IS EQUIPPED  
15    WITH: (I) LIGHTS AS AUTHORIZED BY SUBDIVISION FORTY-ONE OF SECTION THREE  
16    HUNDRED SEVENTY-FIVE OF THIS CHAPTER, WHICH ARE DISPLAYED AND VISIBLE;  
17    (II) A HORN, SIREN, ELECTRONIC DEVICE, OR EXHAUST WHISTLE FROM WHICH  
18    AUDIBLE SIGNALS ARE SOUNDED; AND (III) AN INSIGNIA IDENTIFYING SUCH  
19    VEHICLE AS A POLICE VEHICLE AS DEFINED BY THIS SECTION.  
20    (B) WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICA-  
21    TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF  
22    THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A  
23    SPECIAL PROCEEDING TO ISSUE AN INJUNCTION AND, UPON NOTICE TO THE  
24    DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTIN-

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

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1 UANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF  
2 THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS  
3 SECTION, AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE, ENJOINING  
4 AND RESTRAINING ANY FURTHER VIOLATIONS, WITHOUT REQUIRING PROOF THAT ANY  
5 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH  
6 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS  
7 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE  
8 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-  
9 TION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY  
10 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE  
11 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-  
12 TICE LAW AND RULES.

13 (C) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE  
14 THE FOLLOWING MEANINGS: "GOVERNMENTAL ENTITY" SHALL MEAN THE STATE, A  
15 PUBLIC AUTHORITY, A POLICE DISTRICT, A COUNTY, TOWN, CITY, OR VILLAGE;  
16 "POLICE OFFICER" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION  
17 THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW; AND "POLICE  
18 VEHICLE" SHALL MEAN EVERY VEHICLE FOR WHICH THE STATE, A PUBLIC AUTHORI-  
19 TY, A POLICE DISTRICT, A COUNTY, TOWN, CITY, OR VILLAGE IS THE OWNER AND  
20 WHICH IS OPERATED BY THE POLICE DEPARTMENT OR LAW ENFORCEMENT AGENCY OF  
21 SUCH GOVERNMENTAL UNIT OR BY A CONSTABLE OR POLICE CONSTABLE OF A TOWN  
22 WHEN ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES.

23 S 2. This act shall take effect immediately.