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

6338

2011-2012 Regular Sessions

I N A S S E M B L Y

March 15, 2011

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

AN ACT to amend the penal law, in relation to creating the offense of unlawful funeral protest

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

Section 1. The penal law is amended by adding a new section 240.12 to read as follows:

S 240.12. UNLAWFUL FUNERAL PROTEST.

1. A PERSON IS GUILTY OF UNLAWFUL FUNERAL PROTEST IF HE OR SHE ENGAGES IN PROTEST ACTIVITIES AT ANY LOCATION AT WHICH A FUNERAL IS HELD, WITHIN ONE HOUR PRIOR TO THE COMMENCEMENT OF ANY FUNERAL, AND UNTIL ONE HOUR FOLLOWING THE CESSATION OF ANY FUNERAL, IF SUCH PROTEST ACTIVITIES:

(A) TAKE PLACE WITHIN ONE THOUSAND FEET OF A ROAD, PATHWAY, OR OTHER ROUTE OF INGRESS TO OR EGRESS FROM CEMETERY PROPERTY AND INCLUDE, AS PART OF SUCH ACTIVITIES, ANY INDIVIDUAL WILLFULLY MAKING OR ASSISTING IN THE MAKING OF ANY NOISE OR DIVERSION THAT DISTURBS OR TENDS TO DISTURB THE PEACE OR GOOD ORDER OF THE FUNERAL, MEMORIAL SERVICE, OR CEREMONY; OR

(B) ARE WITHIN ONE THOUSAND FEET OF SUCH CEMETERY AND IMPEDE THE ACCESS TO OR EGRESS FROM SUCH CEMETERY.

2. AS USED IN THIS SECTION:

(A) "FUNERAL" MEANS THE CEREMONIES, PROCESSIONS, AND MEMORIAL SERVICES HELD IN CONNECTION WITH THE BURIAL OR CREMATION OF THE DEAD; AND

(B) "PROTEST ACTIVITIES" MEANS:

(1) ANY PICKETING OR SIMILAR CONDUCT;

(2) ANY ORATION, SPEECH OR USE OF SOUND AMPLIFICATION EQUIPMENT OR DEVICE OR SIMILAR CONDUCT THAT IS NOT PART OF A COMMEMORATIVE SERVICE;

(3) THE DISPLAY OF ANY PLACARD, SIGN, BANNER, FLAG OR SIMILAR DEVICE, UNLESS SUCH DISPLAY IS PART OF A COMMEMORATIVE SERVICE; AND

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

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(4) THE DISTRIBUTION OF ANY HANDBILL, PAMPHLET, LEAFLET OR OTHER WRITTEN OR PRINTED MATTER, OTHER THAN A PROGRAM DISTRIBUTED AS PART OF A COMMEMORATIVE SERVICE.

3. (A) EACH DAY ON WHICH A VIOLATION OF THIS SECTION OCCURS SHALL CONSTITUTE A SEPARATE OFFENSE.

(B) UNLAWFUL FUNERAL PROTEST IS A CLASS B MISDEMEANOR, UNLESS COMMITTED BY A PERSON WHO HAS PREVIOUSLY PLED GUILTY TO OR BEEN FOUND GUILTY OF A VIOLATION OF THIS SECTION, IN WHICH CASE THE VIOLATION IS A CLASS A MISDEMEANOR.

S 2. This act shall take effect on the first of November next succeeding the date upon which it shall have become a law.