

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

326--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. LATIMER, GALEF, BROOK-KRASNY, SPANO, PAULIN, P. RIVERA, JAFFEE, COLTON, REILLY, BRONSON, WEPRIN, BARRON, MAISEL, LAVINE, RODRIGUEZ -- Multi-Sponsored by -- M. of A. BOYLAND, BURLING, CLARK, CROUCH, GABRYSAK, GIBSON, MARKEY, McDONOUGH, McENENY, McKEVITT, M. MILLER, MILLMAN, MONTESANO, MURRAY, PRETLOW, RAI, SALADINO, SCHIMEL, THIELE, WEISENBERG -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to prohibiting illegal unauthorized radio transmissions on certain radio frequencies

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 190.72 to
2 read as follows:
3 S 190.72 UNAUTHORIZED RADIO TRANSMISSION IN THE SECOND DEGREE.
4 A PERSON IS GUILTY OF AN UNAUTHORIZED RADIO TRANSMISSION IN THE SECOND
5 DEGREE WHEN SUCH PERSON:
6 1. KNOWINGLY MAKES OR CAUSES TO BE MADE A RADIO TRANSMISSION IN THIS
7 STATE, ON RADIO FREQUENCIES ASSIGNED AND LICENSED BY THE FEDERAL COMMU-
8 NICATIONS COMMISSION FOR USE BY AM RADIO STATIONS BETWEEN THE FREQUEN-
9 CIES OF 530 KHZ TO 1700 KHZ, OR FM RADIO STATIONS BETWEEN THE FREQUEN-
10 CIES OF 88 MHZ TO 108 MHZ, WITHOUT FIRST HAVING OBTAINED A LICENSE OR
11 OTHER AUTHORIZATION FROM THE FEDERAL COMMUNICATIONS COMMISSION, OR DULY
12 AUTHORIZED FEDERAL AGENCY; OR
13 2. KNOWINGLY CAUSES, EITHER DIRECTLY OR INDIRECTLY, INTERFERENCE TO
14 ANY AM RADIO STATIONS BETWEEN THE FREQUENCIES OF 530 KHZ TO 1700 KHZ, OR
15 FM RADIO STATIONS BETWEEN THE FREQUENCIES OF 88 MHZ TO 108 MHZ WITHOUT
16 AUTHORIZATION BY THE FEDERAL COMMUNICATIONS COMMISSION OR DULY AUTHOR-
17 IZED FEDERAL AGENCY.

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

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1 ANY EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE TRANSMITTING ANTENNA,
2 TRANSMITTER, MASTER CONTROL, SERVERS AND COMPUTERS, USED TO PROVIDE SUCH
3 ILLEGAL RADIO TRANSMISSIONS SHALL BE SUBJECT TO SEIZURE AND, UPON
4 CONVICTION, SUBJECT TO DESTRUCTION PURSUANT TO ARTICLE FOUR HUNDRED
5 SEVENTEEN OF THIS CHAPTER.

6 UNAUTHORIZED RADIO TRANSMISSION IN THE SECOND DEGREE IS A CLASS A
7 MISDEMEANOR.

8 S 2. The penal law is amended by adding a new section 190.73 to read
9 as follows:

10 S 190.73 UNAUTHORIZED RADIO TRANSMISSION IN THE FIRST DEGREE.

11 A PERSON IS GUILTY OF UNAUTHORIZED RADIO TRANSMISSION IN THE FIRST
12 DEGREE WHEN HE OR SHE COMMITS THE CRIME OF UNAUTHORIZED RADIO TRANS-
13 MISSION IN THE SECOND DEGREE PURSUANT TO SECTION 190.72 OF THIS ARTICLE
14 AND HAS PREVIOUSLY BEEN CONVICTED WITHIN THE PRECEDING TEN YEARS OF
15 UNAUTHORIZED RADIO TRANSMISSION IN THE SECOND DEGREE. ANY EQUIPMENT,
16 INCLUDING BUT NOT LIMITED TO THE TRANSMITTING ANTENNA, TRANSMITTER,
17 MASTER CONTROL, SERVERS AND COMPUTERS, USED TO PROVIDE SUCH ILLEGAL
18 RADIO TRANSMISSIONS SHALL BE SUBJECT TO SEIZURE AND, UPON CONVICTION,
19 SUBJECT TO DESTRUCTION PURSUANT TO ARTICLE FOUR HUNDRED SEVENTEEN OF
20 THIS CHAPTER.

21 UNAUTHORIZED RADIO TRANSMISSION IN THE FIRST DEGREE IS A CLASS D FELO-
22 NY.

23 S 3. The penal law is amended by adding a new article 417 to read as
24 follows:

25 ARTICLE 417

26 SEIZURE AND DESTRUCTION OF TRANSMITTING ANTENNA, TRANSMITTER,
27 MASTER CONTROL, SERVERS AND COMPUTERS, USED TO PROVIDE ILLEGAL
28 RADIO TRANSMISSIONS

29 SECTION 417.00 SEIZURE AND DESTRUCTION OF TRANSMITTING ANTENNA, TRANS-
30 MITTER, MASTER CONTROL, SERVERS AND COMPUTERS, USED TO
31 PROVIDE ILLEGAL RADIO TRANSMISSIONS.

32 S 417.00 SEIZURE AND DESTRUCTION OF TRANSMITTING ANTENNA, TRANSMITTER,
33 MASTER CONTROL, SERVERS AND COMPUTERS, USED TO PROVIDE ILLE-
34 GAL RADIO TRANSMISSIONS.

35 ANY EQUIPMENT UTILIZED IN VIOLATION OF SECTION 190.72 OR 190.73 OF
36 THIS CHAPTER MAY BE SEIZED BY ANY POLICE OFFICER UPON THE ARREST OF ANY
37 INDIVIDUAL IN POSSESSION OF THE SAME. UPON FINAL DETERMINATION OF THE
38 CHARGES, THE COURT SHALL, UPON NOTICE FROM THE DISTRICT ATTORNEY, ENTER
39 AN ORDER PRESERVING ANY TRANSMITTING ANTENNA, TRANSMITTER, MASTER
40 CONTROL, SERVERS AND COMPUTERS, USED TO PROVIDE ILLEGAL RADIO TRANS-
41 MISSIONS FOR USE IN OTHER CASES, INCLUDING A CIVIL ACTION. THIS NOTICE
42 MUST BE RECEIVED WITHIN THIRTY DAYS OF FINAL DETERMINATION OF THE CHARG-
43 ES. THE COST OF STORAGE, SECURITY AND DESTRUCTION OF ITEMS SO ORDERED
44 FOR PRESERVATION AND USE AS EVIDENCE IN A CIVIL ACTION, OTHER THAN A
45 CIVIL ACTION UNDER ARTICLE THIRTEEN-A OF THE CIVIL PRACTICE LAW AND
46 RULES INITIATED BY THE DISTRICT ATTORNEY, SHALL BE PAID BY THE PARTY
47 SEEKING PRESERVATION OF THE EVIDENCE FOR A CIVIL ACTION. IF NO SUCH
48 ORDER IS ENTERED WITHIN THE THIRTY DAY PERIOD, THE DISTRICT ATTORNEY OR
49 CUSTODIAN OF THE SEIZED PROPERTY MUST CAUSE SUCH ITEMS TO BE DESTROYED.
50 DESTRUCTION SHALL NOT INCLUDE AUCTION, SALE, OR DISTRIBUTION OF THE
51 ITEMS IN THEIR ORIGINAL FORM.

52 S 4. This act shall take effect on the first of November next succeed-
53 ing the date on which it shall have become a law.