

3613

2011-2012 Regular Sessions

I N S E N A T E

February 28, 2011

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed 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 two new sections 270.21
2 and 270.22 to read as follows:
3 S 270.21 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE SECOND DEGREE.
4 A PERSON IS GUILTY OF AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE
5 SECOND DEGREE WHEN ACTING EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS
6 HE COMMITS ANY VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THIS
7 CHAPTER WHILE POSSESSING A FIREARM, RIFLE OR SHOTGUN AND IN THE COURSE
8 OF AND IN FURTHERANCE OF SUCH CRIME HE, WHILE WEARING BODY ARMOR COMMON-
9 LY KNOWN OR CLASSIFIED AS TYPE I, TYPE II-A OR TYPE II IN SUCH STANDARD
10 CLASSIFICATION SYSTEMS AS THE NATIONAL INSTITUTE OF JUSTICE STANDARDS
11 FOR BALLISTIC AND KNIFE RESISTANCE OF BODY ARMOR, INJURES OR KILLS A
12 POLICE OFFICER.
13 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE SECOND DEGREE IS A
14 CLASS D FELONY.
15 S 270.22 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE FIRST DEGREE.
16 A PERSON IS GUILTY OF AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE
17 FIRST DEGREE WHEN ACTING EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS
18 HE COMMITS ANY VIOLENT FELONY OFFENSE DEFINED IN SECTION 70.02 OF THIS
19 CHAPTER WHILE POSSESSING A FIREARM, RIFLE OR SHOTGUN AND IN THE COURSE
20 OF AND IN FURTHERANCE OF SUCH CRIME HE, WHILE WEARING BODY ARMOR COMMON-
21 LY KNOWN OR CLASSIFIED AS TYPE III, TYPE III-A OR TYPE IV IN SUCH STAND-
22 ARD CLASSIFICATION SYSTEMS AS THE NATIONAL INSTITUTE OF JUSTICE STAND-
23 ARDS FOR BALLISTIC AND KNIFE RESISTANCE OF BODY ARMOR, INJURES OR KILLS
24 A POLICE OFFICER.

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

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1 AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE FIRST DEGREE IS A
2 CLASS C FELONY.

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

5 2. When more than one sentence of imprisonment is imposed on a person
6 for two or more offenses committed through a single act or omission, or
7 through an act or omission which in itself constituted one of the
8 offenses and also was a material element of the other, the sentences,
9 except if one or more of such sentences is for a violation of section
10 270.20, 270.21 OR 270.22 of this chapter, must run concurrently.

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

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

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

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

20 aggravated assault upon a person less than eleven years old, as
21 defined in section 120.12 of the penal law; menacing in the first
22 degree, as defined in section 120.13 of the penal law; reckless endan-
23 germent in the first degree, as defined in section 120.25 of the penal
24 law; stalking in the second degree, as defined in section 120.55 of the
25 penal law; criminally negligent homicide, as defined in section 125.10
26 of the penal law; vehicular manslaughter in the second degree, as
27 defined in section 125.12 of the penal law; vehicular manslaughter in
28 the first degree, as defined in section 125.13 of the penal law;
29 persistent sexual abuse, as defined in section 130.53 of the penal law;
30 aggravated sexual abuse in the fourth degree, as defined in section
31 130.65-a of the penal law; female genital mutilation, as defined in
32 section 130.85 of the penal law; facilitating a sex offense with a
33 controlled substance, as defined in section 130.90 of the penal law;
34 unlawful imprisonment in the first degree, as defined in section 135.10
35 of the penal law; custodial interference in the first degree, as defined
36 in section 135.50 of the penal law; criminal trespass in the first
37 degree, as defined in section 140.17 of the penal law; criminal tamper-
38 ing in the first degree, as defined in section 145.20 of the penal law;
39 tampering with a consumer product in the first degree, as defined in
40 section 145.45 of the penal law; robbery in the third degree as defined
41 in section 160.05 of the penal law; identity theft in the second degree,
42 as defined in section 190.79 of the penal law; identity theft in the
43 first degree, as defined in section 190.80 of the penal law; promoting
44 prison contraband in the first degree, as defined in section 205.25 of
45 the penal law; tampering with a witness in the third degree, as defined
46 in section 215.11 of the penal law; tampering with a witness in the
47 second degree, as defined in section 215.12 of the penal law; tampering
48 with a witness in the first degree, as defined in section 215.13 of the
49 penal law; criminal contempt in the first degree, as defined in subdivi-
50 sions (b), (c) and (d) of section 215.51 of the penal law; aggravated
51 criminal contempt, as defined in section 215.52 of the penal law; bail
52 jumping in the second degree, as defined in section 215.56 of the penal
53 law; bail jumping in the first degree, as defined in section 215.57 of
54 the penal law; patronizing a prostitute in the second degree, as defined
55 in section 230.05 of the penal law; patronizing a prostitute in the
56 first degree, as defined in section 230.06 of the penal law; promoting

1 prostitution in the second degree, as defined in section 230.30 of the
2 penal law; promoting prostitution in the first degree, as defined in
3 section 230.32 of the penal law; compelling prostitution, as defined in
4 section 230.33 of the penal law; disseminating indecent materials to
5 minors in the second degree, as defined in section 235.21 of the penal
6 law; disseminating indecent materials to minors in the first degree, as
7 defined in section 235.22 of the penal law; riot in the first degree, as
8 defined in section 240.06 of the penal law; criminal anarchy, as defined
9 in section 240.15 of the penal law; aggravated harassment of an employee
10 by an inmate, as defined in section 240.32 of the penal law; unlawful
11 surveillance in the second degree, as defined in section 250.45 of the
12 penal law; unlawful surveillance in the first degree, as defined in
13 section 250.50 of the penal law; endangering the welfare of a vulnerable
14 elderly person, OR AN INCOMPETENT OR PHYSICALLY DISABLED PERSON in the
15 second degree, as defined in section 260.32 of the penal law; endanger-
16 ing the welfare of a vulnerable elderly person, OR AN INCOMPETENT OR
17 PHYSICALLY DISABLED PERSON in the first degree, as defined in section
18 260.34 of the penal law; use of a child in a sexual performance, as
19 defined in section 263.05 of the penal law; promoting an obscene sexual
20 performance by a child, as defined in section 263.10 of the penal law;
21 possessing an obscene sexual performance by a child, as defined in
22 section 263.11 of the penal law; promoting a sexual performance by a
23 child, as defined in section 263.15 of the penal law; possessing a sexu-
24 al performance by a child, as defined in section 263.16 of the penal
25 law; criminal possession of a weapon in the third degree, as defined in
26 section 265.02 of the penal law; criminal sale of a firearm in the third
27 degree, as defined in section 265.11 of the penal law; criminal sale of
28 a firearm to a minor, as defined in section 265.16 of the penal law;
29 unlawful wearing of a body vest, as defined in section 270.20 of the
30 penal law; AGGRAVATED UNLAWFUL WEARING OF BODY ARMOR IN THE SECOND
31 DEGREE, AS DEFINED IN SECTION 270.21 OF THE PENAL LAW; AGGRAVATED UNLAW-
32 FUL WEARING OF BODY ARMOR IN THE FIRST DEGREE, AS DEFINED IN SECTION
33 270.22 OF THE PENAL LAW; hate crimes as defined in section 485.05 of the
34 penal law; and crime of terrorism, as defined in section 490.25 of the
35 penal law; or

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

38 S 100-A. CENTRAL STATE REGISTRY OF BODY ARMOR SALES. 1. THE SECRETARY
39 OF STATE SHALL MAINTAIN A COMPUTERIZED REGISTRY OF ALL INDIVIDUALS WHO
40 SELL, DELIVER OR TRANSFER BODY ARMOR PURSUANT TO THE PROVISIONS OF
41 SECTION THREE HUNDRED NINETY-SIX-EEE OF THE GENERAL BUSINESS LAW. THE
42 REGISTRY SHALL INCLUDE THE NAME, ADDRESS AND BUSINESS LICENSE OR REGIS-
43 TRATION NUMBER AS WELL AS THE IDENTIFYING BAR CODE OR OTHER CODE ASSOCI-
44 ATED WITH THE BODY ARMOR.

45 2. THE SECRETARY SHALL MAINTAIN ALL RECORDS COLLECTED FOR A PERIOD OF
46 FIVE YEARS. EVERY DISTRIBUTOR OR DEALER OF BODY ARMOR SHALL FILE WITH
47 THE SECRETARY, ON A MONTHLY BASIS, A REPORT, STATING ALL THE SALES,
48 DELIVERIES AND TRANSFERS OF BODY ARMOR IN SUCH FORM AND ON SUCH MEDIA AS
49 APPROVED FOR SUCH PURPOSE BY THE SECRETARY.

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

52 S 396-EEE. SALE OF BODY ARMOR; REGISTRY. (1) NO PERSON, FIRM OR CORPO-
53 RATION ENGAGED IN THE RETAIL BUSINESS OF SELLING BODY ARMOR, AS SUCH
54 TERM IS DEFINED IN SECTION 10.00 OF THE PENAL LAW, SHALL SELL, DELIVER
55 OR TRANSFER ANY SUCH BODY ARMOR TO ANOTHER PERSON UNLESS THE TRANSFEREE
56 IS PROVIDED AT THE TIME OF SALE, DELIVERY OR TRANSFER, WITH A LABEL

1 CONTAINING THE QUOTED LANGUAGE SPECIFIED IN SUBDIVISION TWO OF THIS
2 SECTION EITHER AFFIXED TO SUCH BODY ARMOR OR PLACED IN THE CONTAINER IN
3 WHICH SUCH BODY ARMOR IS SOLD, DELIVERED OR TRANSFERRED.

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

11 (3) ANY PERSON, FIRM OR CORPORATION WHO FAILS TO REGISTER EACH SALE,
12 DELIVERY OR TRANSFER OF BODY ARMOR AND COMPLY WITH THE PROVISIONS OF
13 THIS SECTION SHALL BE GUILTY OF A VIOLATION PUNISHABLE AS PROVIDED IN
14 THE PENAL LAW. ANY PERSON, FIRM, OR CORPORATION WHO FAILS TO COMPLY WITH
15 THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED OF
16 A VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR,
17 PUNISHABLE AS PROVIDED IN THE PENAL LAW.

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