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

6746--A

I N S E N A T E

March 16, 2012

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed 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 unlawful surveillance in the first and second degrees

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

Section 1. Section 250.45 of the penal law, as added by chapter 69 of the laws of 2003, subdivisions 1, 2 and 3 as amended by chapter 157 of the laws of 2003, is amended to read as follows:

S 250.45 Unlawful surveillance in the second degree.

A person is guilty of unlawful surveillance in the second degree when:

1. For his or her own, or another person's amusement, entertainment, or profit, or for the purpose of degrading or abusing a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person, OR SUCH PERSON TOGETHER IN THE SAME IMAGE WITH THE SEXUAL OR OTHER INTIMATE PARTS OF ANY OTHER PERSON at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or

2. For his or her own, or another person's sexual arousal or sexual gratification, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person, OR SUCH PERSON TOGETHER IN THE SAME IMAGE WITH THE SEXUAL OR OTHER INTIMATE PARTS OF ANY OTHER PERSON at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or

3. (a) For no legitimate purpose, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person in a bedroom, changing room, fitting room, restroom, toilet, bathroom, wash-

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

LBD14950-02-2

room, shower or any room assigned to guests or patrons in a motel, hotel or inn, without such person's knowledge or consent.

(b) For the purposes of this subdivision, when a person uses or installs, or permits the utilization or installation of an imaging device in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a hotel, motel or inn, there is a rebuttable presumption that such person did so for no legitimate purpose; or

4. Without the knowledge or consent of a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record, under the clothing being worn by such person, the sexual or other intimate parts of such person, OR SUCH PERSON TOGETHER IN THE SAME IMAGE WITH THE SEXUAL OR OTHER INTIMATE PARTS OF ANY OTHER PERSON.

Unlawful surveillance in the second degree is a class E felony.

S 2. Section 250.55 of the penal law, as added by chapter 69 of the laws of 2003, is amended to read as follows:

S 250.55 Dissemination of an unlawful surveillance image in the second degree.

A person is guilty of dissemination of an unlawful surveillance image in the second degree when he or she, with knowledge of the unlawful conduct by which an image or images [of the sexual or other intimate parts] of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, intentionally disseminates such image or images.

Dissemination of an unlawful surveillance image in the second degree is a class A misdemeanor.

S 3. Section 250.60 of the penal law, as added by chapter 69 of the laws of 2003, subdivisions 1 and 2 as amended by chapter 157 of the laws of 2003, is amended to read as follows:

S 250.60 Dissemination of an unlawful surveillance image in the first degree.

A person is guilty of dissemination of an unlawful surveillance image in the first degree when:

1. He or she, with knowledge of the unlawful conduct by which an image or images [of the sexual or other intimate parts] of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, sells or publishes such image or images; or

2. Having created a surveillance image in violation of section 250.45 or 250.50 of this article, or in violation of the law in any other jurisdiction which includes all of the essential elements of either such crime, or having acted as an accomplice to such crime, or acting as an agent to the person who committed such crime, he or she intentionally disseminates such unlawfully created image; or

3. He or she commits the crime of dissemination of an unlawful surveillance image in the second degree and has been previously convicted within the past ten years of dissemination of an unlawful surveillance image in the first or second degree.

Dissemination of an unlawful surveillance image in the first degree is a class E felony.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.