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2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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

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:

1     Section 1. Section 250.45 of the penal law, as added by chapter 69 of  
2     the laws of 2003, subdivisions 1, 2 and 3 as amended by chapter 157 of  
3     the laws of 2003, is amended to read as follows:  
4     S 250.45 Unlawful surveillance in the second degree.  
5     A person is guilty of unlawful surveillance in the second degree when:  
6     1. For his or her own, or another person's amusement, entertainment,  
7     or profit, or for the purpose of degrading or abusing a person, he or  
8     she intentionally uses or installs, or permits the utilization or  
9     installation of an imaging device to surreptitiously view, broadcast or  
10    record a person dressing or undressing or the sexual or other intimate  
11    parts of such person, OR SUCH PERSON TOGETHER IN THE SAME IMAGE WITH THE  
12    SEXUAL OR OTHER INTIMATE PARTS OF ANY OTHER PERSON at a place and time  
13    when such person has a reasonable expectation of privacy, without such  
14    person's knowledge or consent; or  
15    2. For his or her own, or another person's sexual arousal or sexual  
16    gratification, he or she intentionally uses or installs, or permits the  
17    utilization or installation of an imaging device to surreptitiously  
18    view, broadcast or record a person dressing or undressing or the sexual  
19    or other intimate parts of such person, OR SUCH PERSON TOGETHER IN THE  
20    SAME IMAGE WITH THE SEXUAL OR OTHER INTIMATE PARTS OF ANY OTHER PERSON  
21    at a place and time when such person has a reasonable expectation of  
22    privacy, without such person's knowledge or consent; or  
23    3. (a) For no legitimate purpose, he or she intentionally uses or  
24    installs, or permits the utilization or installation of an imaging

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

LBD05070-01-3

1 device to surreptitiously view, broadcast or record a person in a  
2 bedroom, changing room, fitting room, restroom, toilet, bathroom, wash-  
3 room, shower or any room assigned to guests or patrons in a motel, hotel  
4 or inn, without such person's knowledge or consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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