

4015

2013-2014 Regular Sessions

I N S E N A T E

March 4, 2013

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 busi-
ness 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 ASSEM-
BLY, 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 22 to read as follows:

13 22. "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. The executive law is amended by adding a new section 100-a to
16 read as follows:

17 S 100-A. CENTRAL STATE REGISTRY OF BODY ARMOR SALES. 1. THE SECRETARY
18 OF STATE SHALL MAINTAIN A COMPUTERIZED REGISTRY OF ALL INDIVIDUALS WHO
19 SELL, DELIVER OR TRANSFER BODY ARMOR PURSUANT TO THE PROVISIONS OF
20 SECTION THREE HUNDRED NINETY-SIX-EEE OF THE GENERAL BUSINESS LAW. THE
21 REGISTRY SHALL INCLUDE THE NAME, ADDRESS AND BUSINESS LICENSE OR REGIS-
22 TRATION NUMBER AS WELL AS THE IDENTIFYING BAR CODE OR OTHER CODE ASSOCI-
23 ATED WITH THE BODY ARMOR.

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

29 S 5. The general business law is amended by adding a new section 396-
30 eee to read as follows:

31 S 396-EEE. SALE OF BODY ARMOR; REGISTRY. (1) NO PERSON, FIRM OR CORPO-
32 RATION ENGAGED IN THE RETAIL BUSINESS OF SELLING BODY ARMOR, AS SUCH
33 TERM IS DEFINED IN SECTION 10.00 OF THE PENAL LAW, SHALL SELL, DELIVER
34 OR TRANSFER ANY SUCH BODY ARMOR TO ANOTHER PERSON UNLESS THE TRANSFEREE
35 IS PROVIDED AT THE TIME OF SALE, DELIVERY OR TRANSFER, WITH A LABEL
36 CONTAINING THE QUOTED LANGUAGE SPECIFIED IN SUBDIVISION TWO OF THIS
37 SECTION EITHER AFFIXED TO SUCH BODY ARMOR OR PLACED IN THE CONTAINER IN
38 WHICH SUCH BODY ARMOR IS SOLD, DELIVERED OR TRANSFERRED.

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

46 (3) ANY PERSON, FIRM OR CORPORATION WHO FAILS TO REGISTER EACH SALE,
47 DELIVERY OR TRANSFER OF BODY ARMOR AND COMPLY WITH THE PROVISIONS OF
48 THIS SECTION SHALL BE GUILTY OF A VIOLATION PUNISHABLE AS PROVIDED IN
49 THE PENAL LAW. ANY PERSON, FIRM, OR CORPORATION WHO FAILS TO COMPLY WITH
50 THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED OF
51 A VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR,
52 PUNISHABLE AS PROVIDED IN THE PENAL LAW.

53 S 6. This act shall take effect on the first of November next succeed-
54 ing the date on which it shall have become a law; provided, however,
55 that effective immediately, the addition, amendment and/or repeal of any
56 rule or regulation necessary for the implementation of this act on its

1 effective date are authorized and directed to be made and completed on
2 or before such effective date.