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

5857--A

2013-2014 Regular Sessions

I N A S S E M B L Y

March 7, 2013

Introduced by M. of A. AUBRY -- 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 executive law, in relation to standards for the use of electronic control weapons

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

Section 1. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. STANDARDS FOR USE OF ELECTRONIC CONTROL WEAPONS. 1. FOR THE PURPOSES OF THIS SECTION

(A) "LAW ENFORCEMENT AGENCY" MEANS AN AGENCY ESTABLISHED BY THE STATE OR A UNIT OF LOCAL GOVERNMENT WHICH EMPLOYS POLICE OFFICERS AS DEFINED IN SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW OR PEACE OFFICERS AS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW WHO ARE EMPOWERED TO USE ELECTRONIC CONTROL WEAPONS IN THE COURSE OF THEIR OFFICIAL DUTIES.

(B) "ELECTRONIC CONTROL WEAPON" MEANS A CONDUCTED ENERGY DEVICE SUCH AS A STUN GUN WHICH IS A LESS-LETHAL WEAPON PRIMARILY DESIGNED TO DISRUPT A SUBJECT'S NERVOUS SYSTEM BY MEANS OF DEPLOYING A HIGH VOLTAGE, LOW POWER CURRENT OF ELECTRICAL ENERGY SUFFICIENT TO CAUSE PAIN AND/OR UNCONTROLLED MUSCLE CONTRACTIONS TO OVERRIDE AN INDIVIDUAL'S VOLUNTARY MOTOR RESPONSE.

2. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF STATE POLICE AND MUNICIPAL POLICE TRAINING COUNCIL, SHALL PROMULGATE A STANDARDIZED INCIDENT REPORT WHICH SHALL BE USED BY ALL STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN THE REPORTING, RECORDING, AND INVESTIGATION OF ALL INSTANCES IN WHICH AN ELECTRONIC CONTROL WEAPON IS FIRED OR DISCHARGED IN THE LINE OF DUTY BY A POLICE OFFICER AS DEFINED IN SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW OR A PEACE OFFICER AS DEFINED IN SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW. SUCH INCIDENT REPORT SHALL

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

LBD09466-02-3

IDENTIFY THE LAW ENFORCEMENT AGENCY EMPLOYING SUCH OFFICER AND INCLUDE FACTS SUPPORTING SUCH OFFICER'S DECISION TO DEPLOY SUCH WEAPON, INCLUDING THE CRIME SUCH INDIVIDUAL IS ALLEGED TO HAVE COMMITTED, A SPECIFIC JUSTIFICATION FOR ANY PROLONGED DISCHARGE CYCLE OR MULTIPLE DISCHARGES, THE AGE, RACE AND GENDER OF THE INDIVIDUAL AGAINST WHOM THE WEAPON WAS DEPLOYED, THE LOCATION OF THE DISCHARGE OF THE WEAPON ON SUCH INDIVIDUAL'S BODY, AND A DESCRIPTION OF ANY KNOWN INJURIES OR DEATH OF THE INDIVIDUAL. SUCH INCIDENT REPORTS SHALL BE FORWARDED TO THE COMMISSIONER FOR REVIEW BY ALL LAW ENFORCEMENT AGENCIES IMMEDIATELY AFTER EACH INCIDENT.

3. IN CONSULTATION WITH LAW ENFORCEMENT AGENCIES THE DIVISION SHALL,

(A) COLLECT, ANALYZE, EVALUATE AND DISSEMINATE STATISTICAL AND OTHER DATA RELATING TO THE USE OF ELECTRONIC CONTROL WEAPONS BY POLICE OFFICERS AND PEACE OFFICERS THROUGHOUT THE STATE; AND

(B) PRESENT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, MINORITY LEADER OF THE SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY AN ANNUAL PUBLIC REPORT CONTAINING THE STATISTICS AND OTHER INFORMATION REQUIRED BY THIS SUBDIVISION; AND

(C) PROMULGATE RULES AND REGULATIONS THAT SHALL BE ADOPTED BY ALL LAW ENFORCEMENT AGENCIES TO ASSURE THAT THE USE OF ELECTRONIC CONTROL WEAPONS BY POLICE AND PEACE OFFICERS IN THIS STATE IS APPROPRIATE, SAFE AND IN ACCORDANCE WITH DEPARTMENT OF JUSTICE GUIDELINES, AND PROHIBITING USE OF SUCH WEAPONS IN CIRCUMSTANCES WHERE THEIR USE IS NOT NECESSARY OR APPROPRIATE.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.