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

6926

I N S E N A T E

March 7, 2016

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

AN ACT to amend the executive law, in relation to equipping police officers to protect against terrorist acts and active shooter incidents

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

Section 1. Legislative finding and declaration. The legislature hereby finds and declares that there is a substantial state interest in protecting New York from the threat of terrorist attacks and active shooter incidents. The legislature also finds and declares that the burden of stopping such threats falls overwhelmingly on police officers, who are often not adequately equipped to be able to meet such threats. Therefore, the legislature declares the necessity for the enactment of this act to require that police officers in certain locations within the state be adequately equipped with state of the art personal protective equipment and firearms that will allow them to meet the existing threat from terrorist attacks and active shooter incidents.

S 2. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. ANTI-TERROR RESPONSE PACKAGES FOR PUBLIC SAFETY. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "COVERED POLICE DEPARTMENT" SHALL MEAN A POLICE DEPARTMENT OF A CITY WITH A POPULATION OF MORE THAN ONE MILLION.

(B) "ANTI-TERROR RESPONSE PACKAGE" SHALL MEAN A PACKAGE OF PERSONAL PROTECTIVE EQUIPMENT AND ONE OR MORE FIREARMS THAT WILL ALLOW A POLICE OFFICER TO RESPOND IMMEDIATELY TO A TERRORIST ATTACK OR AN ACTIVE SHOOTER INCIDENT. THE CONTENTS OF THE PACKAGE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO: AN ADVANCED BALLISTIC VEST; AN ADVANCED BALLISTIC HELMET; AND AN APPROVED LONG GUN OR RIFLE HAVING SEMIAUTOMATIC CAPABILITY. THE EQUIPMENT INCLUDED IN AN ANTI-TERROR RESPONSE PACKAGE SHALL PROVIDE THE GREATEST LEVEL OF PROTECTION AND EFFECTIVENESS TO MEET THE THREAT TO THE PUBLIC AND POLICE OFFICERS FROM TERRORIST ATTACKS AND ACTIVE SHOOTER INCIDENTS AND SHALL BE COMMENSURATE WITH THE STATE OF THE ART AT THE TIME OF ISSUANCE, AS DETERMINED BY THE COMMISSIONER. ALL EQUIPMENT AND

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

LBD14560-01-6

FIREARMS SHALL BE REPLACED BY THE COVERED POLICE DEPARTMENT EVERY FIVE YEARS OR WHEN THE STATE OF THE ART IMPROVES AS DETERMINED BY THE COMMISSIONER, WHICHEVER IS EARLIER.

(C) "ACTIVE SHOOTER INCIDENT" SHALL MEAN ANY INCIDENT WHERE AN INDIVIDUAL OR GROUP IS ACTIVELY ENGAGED IN KILLING, ATTEMPTING TO KILL, OR THREATENING TO KILL A PERSON OR PERSONS IN A PUBLIC OR PRIVATE AREA BY MEANS OF A FIREARM, ASSAULT WEAPON OR EXPLOSIVE DEVICE.

(D) "APPROVED LONG GUN OR RIFLE" SHALL MEAN A M4A1 CARBINE, AR-15 RIFLE, RUGER MINI-14 RIFLE, MP5, OR OTHER FIREARM WITH SIMILAR CAPABILITIES, AS DETERMINED BY THE COMMISSIONER.

(E) "ADVANCED BALLISTIC VEST" SHALL MEAN A BALLISTIC VEST CLASSIFIED AS AT LEAST TYPE IV BY THE NATIONAL INSTITUTE OF JUSTICE STANDARDS FOR BALLISTIC RESISTANCE OF BODY ARMOR. THE COMMISSIONER SHALL DESIGNATE A BALLISTIC VEST THAT IS STATE OF THE ART BEYOND TYPE IV AS THE "ADVANCED BALLISTIC VEST" WHEN SUCH BALLISTIC VEST BECOMES COMMERCIALLY AVAILABLE.

(F) "ADVANCED BALLISTIC HELMET" SHALL MEAN A BALLISTIC HELMET CLASSIFIED AS AT LEAST TYPE III-A BY THE NATIONAL INSTITUTE OF JUSTICE STANDARDS FOR BALLISTIC HELMETS. THE COMMISSIONER SHALL DESIGNATE A BALLISTIC HELMET THAT IS THE STATE OF THE ART BEYOND TYPE III-A AS THE "ADVANCED BALLISTIC HELMET" WHEN SUCH BALLISTIC HELMET BECOMES COMMERCIALLY AVAILABLE.

2. ALL COVERED POLICE DEPARTMENTS SHALL MAINTAIN ONE ANTI-TERROR RESPONSES PACKAGE FOR EVERY EMPLOYED POLICE OFFICER. SUCH ANTI-TERROR RESPONSE PACKAGES SHALL BE LOCATED IN VEHICLES TO WHICH POLICE OFFICERS ARE ASSIGNED, SECURE POLICE FACILITIES, AND OTHER SECURE AREAS IMMEDIATELY ACCESSIBLE TO POLICE OFFICERS DURING THE PERFORMANCE OF THEIR DUTIES. ALL COVERED POLICE DEPARTMENTS SHALL IMPLEMENT A POLICY THAT POLICE OFFICERS OUTFIT THEMSELVES TO THE GREATEST EXTENT PRACTICABLE WITH THE EQUIPMENT AND FIREARM INCLUDED IN THE ANTI-TERROR RESPONSE PACKAGE PRIOR TO RESPONDING TO ANY TERRORIST ATTACK OR ACTIVE SHOOTER INCIDENT.

3. ALL COVERED POLICE DEPARTMENTS SHALL TRAIN ALL POLICE OFFICERS EMPLOYED BY SUCH DEPARTMENTS NO LESS THAN ANNUALLY IN THE USE OF THE ANTI-TERROR RESPONSE PACKAGE AND ITS COMPONENTS, AND SHALL ISSUE ANTI-TERROR CERTIFICATIONS TO POLICE OFFICERS UPON COMPLETION OF SUCH TRAINING.

4. A COVERED POLICE DEPARTMENT MAY APPLY TO THE COMMISSIONER FOR REIMBURSEMENT OF FUNDS EXPENDED FOR THE PURCHASE OF ANTI-TERROR RESPONSE PACKAGES. THE COMMISSIONER SHALL REQUIRE ANY COVERED POLICE DEPARTMENT SEEKING REIMBURSEMENT UNDER THIS SECTION TO APPLY FOR ANY AVAILABLE FEDERAL FUNDS. ANY COVERED POLICE DEPARTMENT FAILING TO DO SO SHALL NOT BE ENTITLED TO REIMBURSEMENT UNDER THIS SECTION. THE COMMISSIONER MAY WAIVE SUCH FAILURE FOR GOOD CAUSE. THE COMMISSIONER SHALL MAINTAIN A PUBLIC RECORD OF ALL SUCH WAIVERS AND THE REASONS THEREFOR. REIMBURSEMENT MAY BE WITHHELD PENDING THE DETERMINATION OF AN APPLICATION FOR FEDERAL FUNDS.

5. THE AMOUNT OF ANY REIMBURSEMENT AUTHORIZED TO BE MADE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION SHALL BE REDUCED BY THE AMOUNT OF ANY FEDERAL FUNDS GRANTED TO THE COVERED POLICE DEPARTMENT FOR THE PURPOSE OF PURCHASING ANTI-TERROR RESPONSE PACKAGES, AND BY THE AMOUNT OF ANY OTHER FUNDS RECEIVED DIRECTLY OR INDIRECTLY FOR THAT PURPOSE BY THE COVERED POLICE DEPARTMENT.

6. THE COMMISSIONER SHALL PROMULGATE REGULATIONS PRESCRIBING STANDARDS AND SPECIFICATIONS FOR THE CONTENTS OF THE ANTI-TERROR RESPONSE PACKAGE PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE REQUIREMENTS FOR TRAINING AND CERTIFICATION PURSUANT TO SUBDIVISION THREE OF THIS SECTION,

PROCEDURES FOR REIMBURSEMENT TO COVERED DEPARTMENTS PURSUANT TO SUBDIVISIONS FOUR AND FIVE OF THIS SECTION, AND ALL OTHER RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

7. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR ANY OTHER GENERAL, SPECIAL, LOCAL OR OTHER LAW, RULE OR REGULATION TO THE CONTRARY, A POLICE OFFICER'S FAILURE TO ADHERE TO POLICIES PROMULGATED BY COVERED POLICE DEPARTMENTS PURSUANT TO THIS SECTION SHALL NOT AMOUNT TO A VIOLATION OF A DUTY OR OBLIGATION OF A POLICE OFFICER AND NEITHER THE POLICE OFFICER NOR ANY HEIR, EXECUTOR, ADMINISTRATOR OR ASSIGN SHALL SUFFER ANY LOSS OR DIMINISHMENT OF ANY RIGHT, INTEREST OR BENEFIT TO WHICH THEY ARE OTHERWISE ENTITLED.

8. THE FAILURE TO SECURE STATE OR FEDERAL FUNDING SHALL NOT RELIEVE A COVERED POLICE DEPARTMENT FROM THE OBLIGATIONS IMPOSED BY THIS SECTION. THE LANGUAGE OF THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A COVERED POLICE DEPARTMENT FROM EXPENDING ITS OWN FUNDS FOR ANTI-TERROR RESPONSE PACKAGES, OR THEIR CONTENTS, IN AMOUNTS EXCEEDING ANY ESTABLISHED STATE REIMBURSEMENT LIMITATIONS.

S 3. This act shall take effect immediately.