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

7124

I N S E N A T E

March 30, 2016

Introduced by Sen. SANDERS -- 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

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

Section 1. Subdivisions 4 and 5 of section 250.45 of the penal law, subdivision 4 as amended and subdivision 5 as added by chapter 193 of the laws of 2014, are amended and a new subdivision 6 is added to read as follows:

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]

5. For his or her own, or another individual's amusement, entertainment, profit, sexual arousal or gratification, or for the purpose of degrading or abusing a person, the actor intentionally uses or installs or permits the utilization or installation of an imaging device to surreptitiously view, broadcast, or record such person in an identifiable manner:

(a) engaging in sexual conduct, as defined in subdivision ten of section 130.00 of this part;

(b) in the same image with the sexual or intimate part of any other person; and

(c) at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent[.] ; OR

6. FOR HIS OR HER OWN SEXUAL AROUSAL OR GRATIFICATION, HE OR SHE COMMITS TRESPASS, AS PROVIDED IN SECTION 140.05 OF THIS CHAPTER, AND OBSERVES, IN OTHER THAN A CASUAL OR CURSORY MANNER, ANOTHER PERSON (A) WITHOUT THE KNOWLEDGE OR CONSENT OF SUCH OTHER PERSON, (B) WHILE SUCH OTHER PERSON IS INSIDE A DWELLING, AS DEFINED IN SECTION 140.00 OF THIS CHAPTER, AND NOT IN PLAIN VIEW, AND (C) UNDER CIRCUMSTANCES WHERE SUCH OTHER PERSON HAS A REASONABLE EXPECTATION OF PRIVACY.

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

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S 2. Section 250.50 of the penal law, as added by chapter 69 of the laws of 2003, is amended to read as follows:

S 250.50 Unlawful surveillance in the first degree.

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

1. he or she commits the crime of unlawful surveillance in the second degree and has been previously convicted within the past ten years of unlawful surveillance in the first or second degree; OR

2. HE OR SHE COMMITS THE CRIME OF UNLAWFUL SURVEILLANCE IN THE SECOND DEGREE AND (A) HE OR SHE HAS BEEN PREVIOUSLY CONVICTED OF AN OFFENSE UNDER ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED THIRTY OF THIS CHAPTER OR (B) THE INTENDED SUBJECT OF THE OFFENSE IS A PERSON UNDER SIXTEEN YEARS OF AGE.

Unlawful surveillance in the first degree is a class D felony.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.