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

8212

I N S E N A T E

November 14, 2016

Introduced by Sens. AKSHAR, GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to designating offenses against law enforcement officers, firefighters and emergency medical services personnel as hate crimes

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

Section 1. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as added by chapter 107 of the laws of 2000, are amended to read as follows:

1. A person commits a hate crime when he or she commits a specified offense and either:

(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding (I) the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person OR (II) BECAUSE OF ACTUAL OR PERCEIVED EMPLOYMENT AS A LAW ENFORCEMENT OFFICER, A FIREFIGHTER OR AS EMERGENCY MEDICAL SERVICES PERSONNEL, regardless of whether the belief or perception is correct, or

(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding (I) the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person OR (II) BECAUSE OF ACTUAL OR PERCEIVED EMPLOYMENT AS A LAW ENFORCEMENT OFFICER, A FIREFIGHTER OR AS EMERGENCY MEDICAL SERVICES PERSONNEL, regardless of whether the belief or perception is correct.

(C) PROVIDED, HOWEVER, SUBPARAGRAPH (II) OF PARAGRAPH (A) AND SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL NOT APPLY WHERE THE SPECIFIED OFFENSE IS COMMITTED BY AN INMATE IN A CORRECTIONAL FACILITY AGAINST A STATE CORRECTIONAL OFFICER OR FEDERAL LAW ENFORCEMENT OFFICER OR EMPLOYEE WHOSE PERMANENT DUTIES INCLUDE THE CARE, CUSTODY, CONTROL OR SUPERVISION OF INMATES.

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

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2. Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation OR EMPLOYMENT AS A LAW ENFORCEMENT OFFICER, A FIREFIGHTER OR AS EMERGENCY MEDICAL SERVICES PERSONNEL of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.

4. For purposes of this section:

(a) the term "age" means sixty years old or more;

(b) the term "disability" means a physical or mental impairment that substantially limits a major life activity[.];

(C) THE TERM "LAW ENFORCEMENT OFFICER" MEANS ANY ACTIVE OR RETIRED CITY OR STATE LAW ENFORCEMENT OFFICER, PEACE OFFICER, SHERIFF, DEPUTY SHERIFF, PROBATION OR PAROLE OFFICER, MARSHAL, DEPUTY, WILDLIFE ENFORCEMENT AGENCY, STATE CORRECTIONAL OFFICER, OR COMMISSIONED AGENT OF THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, AS WELL AS ANY FEDERAL LAW ENFORCEMENT OFFICER OR EMPLOYEE, WHOSE PERMANENT DUTIES INCLUDE MAKING ARRESTS, PERFORMING SEARCH AND SEIZURES, EXECUTION OF CRIMINAL ARREST WARRANTS, EXECUTION OF CIVIL SEIZURE WARRANTS, ANY CIVIL FUNCTIONS PERFORMED BY SHERIFFS OR DEPUTY SHERIFFS, ENFORCEMENT OF PENAL OR TRAFFIC LAWS, OR THE CARE, CUSTODY, CONTROL OR SUPERVISION OF INMATES;

(D) THE TERM "FIREFIGHTER" MEANS (I) ANY FIREFIGHTER REGULARLY EMPLOYED BY A FIRE DEPARTMENT OF ANY MUNICIPALITY OF THE STATE OF NEW YORK AND (II) ANY VOLUNTEER FIREFIGHTER AS DEFINED IN SUBDIVISION ONE OF SECTION THREE OF THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW; AND

(E) THE TERM "EMERGENCY MEDICAL SERVICES PERSONNEL" MEANS THE PERSONNEL OF A SERVICE OR AGENCY, WHETHER PAID OR VOLUNTEER, ENGAGED IN PROVIDING INITIAL EMERGENCY MEDICAL ASSISTANCE, INCLUDING BUT NOT LIMITED TO FIRST RESPONDERS, EMERGENCY MEDICAL TECHNICIANS AND ADVANCED EMERGENCY MEDICAL TECHNICIANS.

S 2. This act shall take effect immediately.