

3920

2015-2016 Regular Sessions

I N   S E N A T E

February 20, 2015

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Introduced by Sen. GOLDEN -- 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 on duty auxiliary police officers

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

1     Section 1. Section 10.00 of the penal law is amended by adding a new  
2     subdivision 22 to read as follows:

3     22. "ON-DUTY AUXILIARY POLICE OFFICER" MEANS A MEMBER OF AN AUXILIARY  
4     POLICE PROGRAM THAT IS ORGANIZED AND MAINTAINED BY A STATE OR LOCAL  
5     POLICE DEPARTMENT WHO IS ACTING AS AN AUXILIARY POLICE OFFICER AT THE  
6     TIME OF THE ACT OR OMISSION.

7     S 2. Paragraphs (b) and (c) of subdivision 1 of section 70.02 of the  
8     penal law, as amended by chapter 1 of the laws of 2013, are amended to  
9     read as follows:

10     (b) Class C violent felony offenses: an attempt to commit any of the  
11     class B felonies set forth in paragraph (a) of this subdivision; aggra-  
12     vated criminally negligent homicide as defined in section 125.11, aggra-  
13     vated manslaughter in the second degree as defined in section 125.21,  
14     aggravated sexual abuse in the second degree as defined in section  
15     130.67, assault on a peace officer, police officer, fireman or emergency  
16     medical services professional as defined in section 120.08, ASSAULT ON  
17     AN ON-DUTY AUXILIARY POLICE OFFICER AS DEFINED IN SECTION 120.08-A,  
18     assault on a judge as defined in section 120.09, gang assault in the  
19     second degree as defined in section 120.06, strangulation in the first  
20     degree as defined in section 121.13, burglary in the second degree as  
21     defined in section 140.25, robbery in the second degree as defined in  
22     section 160.10, criminal possession of a weapon in the second degree as  
23     defined in section 265.03, criminal use of a firearm in the second  
24     degree as defined in section 265.08, criminal sale of a firearm in the  
25     second degree as defined in section 265.12, criminal sale of a firearm

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

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1 with the aid of a minor as defined in section 265.14, aggravated crimi-  
2 nal possession of a weapon as defined in section 265.19, soliciting or  
3 providing support for an act of terrorism in the first degree as defined  
4 in section 490.15, hindering prosecution of terrorism in the second  
5 degree as defined in section 490.30, and criminal possession of a chemi-  
6 cal weapon or biological weapon in the third degree as defined in  
7 section 490.37.

8 (c) Class D violent felony offenses: an attempt to commit any of the  
9 class C felonies set forth in paragraph (b); reckless assault of a child  
10 as defined in section 120.02, assault in the second degree as defined in  
11 section 120.05, menacing a police officer or peace officer as defined in  
12 section 120.18, MENACING AN ON-DUTY AUXILIARY POLICE OFFICER AS DEFINED  
13 IN SECTION 120.19, stalking in the first degree, as defined in subdivi-  
14 sion one of section 120.60, strangulation in the second degree as  
15 defined in section 121.12, rape in the second degree as defined in  
16 section 130.30, criminal sexual act in the second degree as defined in  
17 section 130.45, sexual abuse in the first degree as defined in section  
18 130.65, course of sexual conduct against a child in the second degree as  
19 defined in section 130.80, aggravated sexual abuse in the third degree  
20 as defined in section 130.66, facilitating a sex offense with a  
21 controlled substance as defined in section 130.90, criminal possession  
22 of a weapon in the third degree as defined in subdivision five, six,  
23 seven, eight, nine or ten of section 265.02, criminal sale of a firearm  
24 in the third degree as defined in section 265.11, intimidating a victim  
25 or witness in the second degree as defined in section 215.16, soliciting  
26 or providing support for an act of terrorism in the second degree as  
27 defined in section 490.10, and making a terroristic threat as defined in  
28 section 490.20, falsely reporting an incident in the first degree as  
29 defined in section 240.60, placing a false bomb or hazardous substance  
30 in the first degree as defined in section 240.62, placing a false bomb  
31 or hazardous substance in a sports stadium or arena, mass transportation  
32 facility or enclosed shopping mall as defined in section 240.63, and  
33 aggravated unpermitted use of indoor pyrotechnics in the first degree as  
34 defined in section 405.18.

35 S 3. Subdivisions 11-b and 12 of section 120.05 of the penal law,  
36 subdivision 11-b as added by chapter 197 of the laws of 2014 and subdivi-  
37 sion 12 as added by chapter 68 of the laws of 2008, are amended and a  
38 new subdivision 13 is added to read as follows:

39 11-b. With intent to cause physical injury to an employee of the New  
40 York city housing authority performing his or her lawful duties while  
41 located on housing project grounds, real property, or a building owned,  
42 managed, or operated by such authority he or she causes physical injury  
43 to such employee; [or]

44 12. With intent to cause physical injury to a person who is sixty-five  
45 years of age or older, he or she causes such injury to such person, and  
46 the actor is more than ten years younger than such person[.]; OR

47 13. WITH THE INTENT TO PREVENT AN ON-DUTY AUXILIARY POLICE OFFICER  
48 FROM PERFORMING A LAWFUL DUTY, BY MEANS INCLUDING RELEASING OR FAILING  
49 TO CONTROL AN ANIMAL UNDER CIRCUMSTANCES EVINCING THE ACTOR'S INTENT  
50 THAT THE ANIMAL OBSTRUCT THE LAWFUL ACTIVITY OF SUCH ON-DUTY AUXILIARY  
51 POLICE OFFICER, HE OR SHE CAUSES PHYSICAL INJURY TO SUCH ON-DUTY AUXIL-  
52 IARY POLICE OFFICER.

53 S 4. The penal law is amended by adding a new section 120.08-a to read  
54 as follows:

55 S 120.08-A ASSAULT ON AN ON-DUTY AUXILIARY OFFICER.

1 A PERSON IS GUILTY OF ASSAULT ON AN ON-DUTY AUXILIARY POLICE OFFICER  
2 WHEN, WITH INTENT TO PREVENT AN ON-DUTY AUXILIARY POLICE OFFICER FROM  
3 PERFORMING A LAWFUL DUTY, HE OR SHE CAUSES SERIOUS PHYSICAL INJURY TO  
4 SUCH AN ON-DUTY AUXILIARY POLICE OFFICER.

5 ASSAULT ON AN ON-DUTY AUXILIARY POLICE OFFICER IS A CLASS C FELONY.

6 S 5. Section 120.13 of the penal law, as amended by chapter 765 of the  
7 laws of 2005, is amended to read as follows:

8 S 120.13 Menacing in the first degree.

9 A person is guilty of menacing in the first degree when he or she  
10 commits the crime of menacing in the second degree and has been previ-  
11 ously convicted of the crime of menacing in the second degree or the  
12 crime of menacing a police officer or peace officer, OR THE CRIME OF  
13 MENACING AN ON-DUTY AUXILIARY POLICE OFFICER within the preceding ten  
14 years.

15 Menacing in the first degree is a class E felony.

16 S 6. The penal law is amended by adding a new section 120.19 to read  
17 as follows:

18 S 120.19 MENACING AN ON-DUTY AUXILIARY POLICE OFFICER.

19 A PERSON IS GUILTY OF MENACING AN ON-DUTY AUXILIARY POLICE OFFICER  
20 WHEN HE OR SHE INTENTIONALLY PLACES OR ATTEMPTS TO PLACE AN ON-DUTY  
21 AUXILIARY POLICE OFFICER IN REASONABLE FEAR OF PHYSICAL INJURY, SERIOUS  
22 PHYSICAL INJURY OR DEATH BY DISPLAYING A DEADLY WEAPON, KNIFE, PISTOL,  
23 REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM, WHETHER OPERABLE  
24 OR NOT, WHERE SUCH OFFICER WAS IN THE COURSE OF PERFORMING HIS OR HER  
25 OFFICIAL DUTIES AND THE DEFENDANT KNEW OR REASONABLY SHOULD HAVE KNOWN  
26 THAT SUCH VICTIM WAS AN ON-DUTY AUXILIARY POLICE OFFICER.

27 MENACING AN ON-DUTY POLICE OFFICER IS A CLASS D FELONY.

28 S 7. The penal law is amended by adding a new section 195.09 to read  
29 as follows:

30 S 195.09 OBSTRUCTING THE DUTIES OF AN ON-DUTY AUXILIARY POLICE OFFICER  
31 BY MEANS OF A SELF-DEFENSE SPRAY DEVICE.

32 A PERSON IS GUILTY OF OBSTRUCTING THE DUTIES OF AN ON-DUTY AUXILIARY  
33 POLICE OFFICER BY MEANS OF A SELF-DEFENSE SPRAY DEVICE WHEN, WITH THE  
34 INTENT TO PREVENT AN ON-DUTY AUXILIARY POLICE OFFICER FROM PERFORMING A  
35 LAWFUL DUTY, HE OR SHE CAUSES TEMPORARY PHYSICAL IMPAIRMENT TO AN  
36 ON-DUTY AUXILIARY POLICE OFFICER BY INTENTIONALLY DISCHARGING A SELF-DE-  
37 FENSE SPRAY DEVICE, AS DEFINED IN PARAGRAPH FOURTEEN OF SUBDIVISION A OF  
38 SECTION 265.20 OF THIS CHAPTER, THEREBY CAUSING SUCH TEMPORARY PHYSICAL  
39 IMPAIRMENT.

40 OBSTRUCTING THE DUTIES OF AN ON-DUTY AUXILIARY POLICE OFFICER BY MEANS  
41 OF A SELF-DEFENSE SPRAY DEVICE IS A CLASS D FELONY.

42 S 8. This act shall take effect on the first of November next succeed-  
43 ing the date on which it shall have become a law.