

6735

I N S E N A T E

February 11, 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 photographing or recording a law enforcement officer

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

1 Section 1. Section 195.05 of the penal law, as amended by chapter 269
2 of the laws of 1998, is amended to read as follows:
3 S 195.05 Obstructing governmental administration in the second degree.
4 1. A person is guilty of obstructing governmental administration IN
5 THE SECOND DEGREE when he intentionally obstructs, impairs or perverts
6 the administration of law or other governmental function or prevents or
7 attempts to prevent a public servant from performing an official func-
8 tion, by means of intimidation, physical force or interference, or by
9 means of any independently unlawful act, or by means of interfering,
10 whether or not physical force is involved, with radio, telephone, tele-
11 vision or other telecommunications systems owned or operated by the
12 state, or a county, city, town, village, fire district or emergency
13 medical service or by means of releasing a dangerous animal under
14 circumstances evincing the actor's intent that the animal obstruct
15 governmental administration.
16 2. A PERSON IS PERMITTED TO EXERCISE THEIR RIGHT TO PHOTOGRAPH OR
17 RECORD A LAW ENFORCEMENT OFFICER PERFORMING THEIR DUTIES WHILE THE OFFI-
18 CER IS IN A PUBLIC PLACE OR PUBLIC VIEW, OR THE PERSON IS IN A PRIVATE
19 PLACE THE PERSON HAS THE RIGHT TO BE.
20 (A) IF SUCH PHOTOGRAPHY OR RECORDING OCCURS, AN OFFICER SHALL NOT:
21 (I) INTENTIONALLY HINDER, PREVENT, OR OBSTRUCT THE PERSON FROM TAKING
22 A PHOTOGRAPH OR MAKING A RECORDING;
23 (II) DETAIN, ARREST, THREATEN, INTIMIDATE, OR OTHERWISE HARASS SUCH
24 PERSON;
25 (III) SEARCH OR SEIZE THE PHOTOGRAPH, RECORDING, OR DEVICE USED TO
26 TAKE THE PHOTOGRAPH OR MAKE THE RECORDING WITHOUT SUCH PERSON'S PERMIS-
27 SION OR A WARRANT; OR

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

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1 (IV) DAMAGE OR DESTROY THE PHOTOGRAPH, RECORDING, OR DEVICE USED TO
2 TAKE THE PHOTOGRAPH OR MAKE THE RECORDING.
3 (B) THIS SUBDIVISION SHALL NOT APPLY TO A PERSON IF AN OFFICER IS IN
4 THE ACT OF PLACING SUCH PERSON UNDER ARREST OR THE PERSON IS UNDER
5 ARREST.
6 (C) IF AN OFFICER VIOLATES THIS SUBDIVISION, SUCH PERSON SHALL HAVE A
7 CIVIL CAUSE OF ACTION AGAINST THE OFFICER AND THE OFFICER'S LAW ENFORCE-
8 MENT AGENCY.
9 Obstructing governmental administration IN THE SECOND DEGREE is a
10 class A misdemeanor.
11 S 2. This act shall take effect immediately.