

STATE OF NEW YORK

3039

2019-2020 Regular Sessions

IN SENATE

February 1, 2019

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 § 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;

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

LBD09137-01-9

1 (iii) search or seize the photograph, recording, or device used to
2 take the photograph or make the recording without such person's permis-
3 sion or a warrant; or

4 (iv) damage or destroy the photograph, recording, or device used to
5 take the photograph or make the recording.

6 (b) This subdivision shall not apply to a person if an officer is in
7 the act of placing such person under arrest or the person is under
8 arrest.

9 (c) If an officer violates this subdivision, such person shall have a
10 civil cause of action against the officer and the officer's law enforce-
11 ment agency.

12 Obstructing governmental administration in the second degree is a
13 class A misdemeanor.

14 § 2. This act shall take effect immediately.