STATE OF NEW YORK

4849

2019-2020 Regular Sessions

IN SENATE

March 27, 2019

Introduced by Sen. HOYLMAN -- 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 electronic dart guns and electronic stun guns

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision a of section 265.20 of the penal law is amended by adding two new paragraphs 17 and 18 to read as follows:

17. Possession in accordance with the provisions of this paragraph of an electronic dart gun or an electronic stun gun, as those terms are defined in section 265.00 of this article, for the protection of a person or property on real estate that such person owns or leases, or where such person resides, or within the confines of a business establishment that such person owns or leases, and use of such electronic dart gun or electronic stun gun under circumstances which would justify the use of physical force pursuant to article thirty-five of this chapter.

(a) The exemption provided for under this paragraph shall not apply to a person who: (i) is less than eighteen years of age; (ii) has been previously convicted in this state of a felony or any assault; or (iii) has been convicted of a crime outside the state of New York which if committed in New York would constitute a felony or any assault crime.

(b) The department of health, with the cooperation of the division of criminal justice services and the superintendent of state police, shall develop standards and promulgate regulations regarding the type of electronic dart gun or electronic stun gun which may lawfully be purchased, possessed and used pursuant to this paragraph. Such regulations shall include a maximum allowable delivered charge for such devices, and a requirement that every electronic dart gun or electronic stun gun which may be lawfully purchased, possessed or used pursuant to this paragraph have a label which states: "WARNING: the use of this device for any

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

LBD10970-01-9

purpose other than self-defense is a criminal offense under the law. This device shall not be sold by another person, other than a licensed or authorized dealer. Possession of this device by any person under the age of eighteen or by anyone who has been convicted of a felony or assault is illegal. Violators may be prosecuted under the law."

18. Possession and sale of an electronic dart gun or electronic stun gun as defined in section 265.00 of this article, by a dealer in firearms licensed pursuant to section 400.00 of this chapter, or by any other vendor as may be authorized and approved by the superintendent of state police.

(a) Every electronic dart gun or electronic stun gun shall be accompanied by an insert or inserts which include directions for use, first aid information, safety and storage information and which shall also contain a toll free telephone number for the purpose of allowing any purchaser to call and receive additional information regarding the availability of local courses in self-defense training and safety in the use of an electronic dart gun or electronic stun gun.

(b) Before delivering an electronic dart gun or electronic stun gun to any person, the licensed or authorized dealer shall require proof of age and a sworn statement on a form approved by the superintendent of state police that such person has not been convicted of a felony or any crime involving an assault. Such forms shall be forwarded to the division of state police at such intervals as directed by the superintendent of state police. Absent any such direction the forms shall be maintained on the premises of the vendor and shall be open at all reasonable hours for inspection by any peace officer or police officer, acting pursuant to his or her special duties. No more than two of any combination of electronic dart guns or electronic stun guns may be sold at any one time to a single purchaser.

§ 2. Section 195.08 of the penal law, as added by chapter 354 of the laws of 1996, is amended to read as follows:

§ 195.08 Obstructing governmental administration by means of a self-defense spray device, electronic dart gun, or electronic stun gun.

A person is guilty of obstructing governmental administration by means of a self-defense spray device, electronic dart gun, or electronic stun gun when, with the intent to prevent a police officer or peace officer from performing a lawful duty, he causes temporary physical impairment to a police officer or peace officer by intentionally discharging a self-defense spray device, as defined in paragraph fourteen of subdivision a of section 265.20 of this chapter, or an electronic dart gun or electronic stun gun, as defined in section 265.00 of this chapter, thereby causing such temporary physical impairment.

Obstructing governmental administration by means of a self-defense spray device, electronic dart gun, or electronic stun gun is a class D felony.

§ 3. This act shall take effect immediately.