

# STATE OF NEW YORK

8514

## IN SENATE

June 6, 2020

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to prohibiting the use of tear gas by law enforcement personnel

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

1 Section 1. Paragraph c of subdivision 1 of section 837-t of the execu-  
2 tive law, as added by section 1 of part RR of chapter 55 of the laws of  
3 2019, is amended to read as follows:

4 c. displays, uses or deploys a chemical agent, including, but not  
5 limited to, oleoresin capsicum[7] or pepper spray [~~or tear gas~~]; or

6 § 2. The executive law is amended by adding a new section 837-v to  
7 read as follows:

8 § 837-v. Use of tear gas prohibited. 1. For the purposes of this  
9 section, "tear gas" shall mean any liquid, gaseous, or solid substance  
10 intended to produce temporary physical discomfort or permanent injury to  
11 a human being through being vaporized or otherwise dispersed in the air,  
12 provided that "tear gas" shall not include pepper spray.

13 2. No police agency, police officer or peace officer shall use tear  
14 gas in the performance of their duties.

15 3. In addition to any other sanctions, penalties or remedies provided  
16 by law, a person may bring an action for equitable or declaratory relief  
17 in a court of competent jurisdiction against a police agency, police  
18 officer or peace officer that violates this section.

19 § 3. The executive law is amended by adding a new section 234 to read  
20 as follows:

21 § 234. Use of tear gas prohibited. 1. For the purposes of this  
22 section, "tear gas" shall mean any liquid, gaseous, or solid substance  
23 intended to produce temporary physical discomfort or permanent injury to  
24 a human being through being vaporized or otherwise dispersed in the air,  
25 provided that "tear gas" shall not include pepper spray.

26 2. No member of the state police shall use tear gas in the performance  
27 of their duties.

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

LBD16598-01-0

1 3. In addition to any other sanctions, penalties or remedies provided  
2 by law, a person may bring an action for equitable or declaratory relief  
3 in a court of competent jurisdiction against a member of the state  
4 police that violates this section.

5 § 4. This act shall take effect immediately.