# STATE OF NEW YORK

3989

2021-2022 Regular Sessions

# IN ASSEMBLY

February 1, 2021

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing the offenses of destruction of police property in the fourth degree, destruction of police property in the third degree, destruction of police property in the second degree and destruction of police property in the first degree

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

Section 1. The penal law is amended by adding 4 new sections 145.16, 145.17, 145.18 and 145.19 to read as follows:

**§ 145.16 Destruction of police property in the fourth degree.**

**A person is guilty of destruction of police property in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:**

**1. intentionally damages police property; or**

**2. recklessly damages police property in an amount exceeding two hundred fifty dollars; or**

**3. with intent to prevent a police officer or sheriff from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while such officer:**

**(a) is attempting to seek or is engaged in the process of seeking emergency assistance from police, law enforcement, fire or emergency medical services personnel; or**

**(b) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision.**

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

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Destruction of police property in the fourth degree is a class E felony.

§ 145.17 Destruction of police property in the third degree.

A person is guilty of destruction of police property in the third degree when, with intent to damage police property, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she:

1. (a) damages a motor vehicle belonging to the division of the state police, a police department or a sheriff's office, by breaking into such vehicle when it is locked with the intent of stealing property; and

(b) within the previous ten year period, has been convicted three or more times, in separate criminal transactions for which sentence was imposed on separate occasions of:

(i) criminal mischief in the fourth degree as defined in section 145.00, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, or criminal mischief in the first degree as defined in section 145.12 of this article; or

(ii) destruction of police property in the fourth degree as defined in section 145.16, destruction of police property in the third degree as defined in this section, destruction of police property in the second degree as defined in section 145.18, or destruction of police property in the first degree as defined in section 145.19 of this article; or

2. damages police property in an amount exceeding two hundred fifty dollars.

Destruction of police property in the third degree is a class D felony.

§ 145.18 Destruction of police property in the second degree.

A person is guilty of destruction of police property in the second degree when with intent to damage police property, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she damages police property in an amount exceeding one thousand five hundred dollars.

Destruction of police property in the second degree is a class C felony.

§ 145.19 Destruction of police property in the first degree.

A person is guilty of destruction of police property in the first degree when with intent to damage police property, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she damages police property by means of an explosive.

Destruction of police property in the first degree is a class A felony.

§ 2. Section 145.13 of the penal law, as amended by chapter 45 of the laws of 2009, is amended to read as follows:

§ 145.13 Definitions.

(1) For the purposes of sections 145.00, 145.05, 145.10 and 145.12 of this article:

"Property of another" shall include all property in which another person has an ownership interest, whether or not a person who damages such property, or any other person, may also have an interest in such property.

2. For the purposes of sections 145.16, 145.17, 145.18 and 145.19 of this article:

"Police property" shall include all property in which:

(a) the division of the state police, a police department or a sheriff's office has an ownership interest; or

**(b) a municipality has an ownership interest and which is provided to a police department or sheriff's office for use by such department or office.**

§ 3. This act shall take effect on the first of November next succeeding the date upon which it shall have become a law.