

STATE OF NEW YORK

8372

IN SENATE

February 17, 2022

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

AN ACT to amend the executive law and the criminal procedure law, in relation to persons designated as auxiliary officers

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

1 Section 1. Section 835 of the executive law is amended by adding a new
2 subdivision 7-c to read as follows:

3 7-c. "Auxiliary officer" means a person designated as such in section
4 3.10 of the criminal procedure law.

5 § 2. Title A of part 1 of the criminal procedure law is amended by
6 adding a new article 3 to read as follows:

7 ARTICLE 3
8 AUXILIARY OFFICERS

9 Section 3.10 Persons designated as auxiliary officers.

10 3.20 Powers of auxiliary officers.

11 3.30 Training requirements for auxiliary officers.

12 § 3.10 Persons designated as auxiliary officers.

13 Notwithstanding the provisions of any general, special or local law or
14 charter to the contrary, only the following persons shall have the
15 powers of, and shall be auxiliary officers:

16 1. A member of an auxiliary police organization authorized by local
17 law.

18 2. Auxiliary police appointed in accordance with subsection twenty-
19 five of section three of the New York state defense emergency act of
20 nineteen hundred fifty-one.

21 3. Special police officers appointed under section one hundred fifty-
22 eight of the town law.

23 4. All constables or police constables not covered by subdivision one
24 of section 2.10 of this title.

25 5. All special deputies, special constables, marshals, police offi-
26 cers, or peace officers not otherwise designated a police officer under

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

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1 section 1.20 of this title or a peace officer under section 2.10 of this
2 title.

3 § 3.20 Powers of auxiliary officers.

4 1. The persons designated in section 3.10 of this article shall have
5 the following powers:

6 (a) The power to issue appearance tickets pursuant to subdivision
7 three of section 150.20 of this chapter, when acting pursuant to their
8 special duties.

9 (b) The power to issue uniform appearance tickets pursuant to article
10 twenty-seven of the parks, recreation and historic preservation law and
11 to issue simplified traffic information pursuant to section 100.25 of
12 this chapter and section two hundred seven of the vehicle and traffic
13 law whenever acting pursuant to their special duties.

14 (c) The power to issue a uniform navigation summons and/or complaint
15 pursuant to section nineteen of the navigation law whenever acting
16 pursuant to their special duties.

17 (d) The power to issue uniform appearance tickets pursuant to article
18 seventy-one of the environmental conservation law, whenever acting
19 pursuant to their special duties.

20 (e) Any other power which a particular auxiliary officer is otherwise
21 authorized to exercise by any general, special or local law or charter
22 whenever acting pursuant to their special duties, provided such power is
23 not inconsistent with the provisions of the penal law or this chapter.

24 2. For the purposes of this section, an auxiliary officer acts pursu-
25 ant to their special duties when they perform the duties of their
26 office, pursuant to the specialized nature of their particular appoint-
27 ment, whereby they are required or authorized to enforce any general,
28 special or local law or charter, rule, regulation, judgment or order.

29 3. An auxiliary officer, whether or not acting pursuant to their
30 special duties, who lawfully exercises any of the powers conferred upon
31 them pursuant to this section, shall not be deemed to be acting within
32 the scope of their appointment for purposes of defense and indemnifica-
33 tion rights and benefits that they may be otherwise entitled to under
34 the provisions of section fifty-k of the general municipal law, sections
35 seventeen or eighteen of the public officers law, or any other applica-
36 ble section of law.

37 § 3.30 Training requirements for auxiliary officers.

38 1. Every auxiliary officer in the state of New York must successfully
39 complete a training program, a portion of which shall be prescribed by
40 the municipal police training council and a portion of which shall be
41 prescribed by his or her appointing authority. The portion prescribed by
42 the municipal police training council shall be comprised of subjects,
43 and the hours each is to be taught, that shall be required of all types
44 or classes of auxiliary officers. The hours of instruction required by
45 the municipal police training council shall not exceed eighty hours,
46 unless a greater amount is either required by law or regulation, or is
47 requested by the appointing authority. The segment prescribed by the
48 appointing authority for its appointees shall be comprised of subjects,
49 and the hours each is to be taught, relating to the special nature of
50 the duties of the auxiliary officers employed by it provided, however,
51 that when the subjects prescribed by the appointing authority are iden-
52 tical to the subjects in the training program required by the municipal
53 police training council, the appointing authority shall not be required
54 to provide duplicate training for those subjects.

55 2. Each state or local agency, unit of local government, state or
56 local commission, or public authority, or public or private organization

1 which appoints auxiliary officers shall provide the training mandated by
2 this section, the cost of which will be borne by the appointing authori-
3 ty. Each auxiliary officer satisfactorily completing the course
4 prescribed by the municipal police training council shall be awarded a
5 certificate by the division of criminal justice services attesting to
6 that effect, and no person appointed as an auxiliary officer shall exer-
7 cise the powers of an auxiliary officer, unless he or she has received
8 such certification within twelve months of appointment.

9 3. No appointing authority shall allow any auxiliary officer to carry
10 or use a weapon during any phase of the officer's official duties.

11 4. Upon the failure or refusal to comply with the requirements of this
12 section, the commissioner of the division of criminal justice services
13 shall apply to the supreme court for an order directed to the person
14 responsible requiring compliance. Upon such application, the court may
15 issue such order as may be just, and a failure to comply with the order
16 of the court shall be a contempt of court and punishable as such.

17 5. Every appointing authority of auxiliary officers shall report to
18 the division of criminal justice services, in such form and at such time
19 as the division may by regulation require, the names of all auxiliary
20 officers who have satisfactorily completed any of the training require-
21 ments prescribed by this section.

22 6. A certificate attesting to satisfactory completion of the training
23 requirements imposed under this section awarded to any auxiliary officer
24 by the executive director of the municipal police training council
25 pursuant to this section shall remain valid:

26 (a) during the holder's continuous service as an auxiliary officer;
27 and

28 (b) for two years after the date of the commencement of an inter-
29 ruption in such service where the holder had, immediately prior to such
30 interruption, served as an auxiliary officer for less than two consec-
31 utive years; or

32 (c) for four years after the date of the commencement of an inter-
33 ruption in such service where the holder had, immediately prior to such
34 interruption, served as an auxiliary officer for two consecutive years
35 or longer.

36 As used in this subdivision, the term "interruption" shall mean a
37 period of separation from service as a peace officer by reason of such
38 officer's leave of absence, resignation or removal, other than removal
39 for cause.

40 § 3. This act shall take effect immediately; provided, however, that
41 completion of the training program required by subdivision 1 of section
42 3.30 of the criminal procedure law, as added by section two of this act,
43 shall apply only to auxiliary officers appointed on or after the effec-
44 tive date of this act, and provided further that auxiliary officers
45 appointed prior to the effective date of this act shall be subject to
46 the training requirements in place at the time of their appointment.