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:

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

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

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

ARTICLE 3
AUXILIARY OFFICERS

Section 3.10 Persons designated as auxiliary officers.
3.20 Powers of auxiliary officers.
3.30 Training requirements for auxiliary officers.

§ 3.10 Persons designated as auxiliary officers.

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

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

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

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

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

5. All special deputies, special constables, marshals, police officers, 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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section 1.20 of this title or a peace officer under section 2.10 of this title.

§ 3.20 Powers of auxiliary officers.

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

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

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

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

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

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

2. For the purposes of this section, an auxiliary officer acts pursuant to their special duties when they perform the duties of their office, pursuant to the specialized nature of their particular appointment, whereby they are required or authorized to enforce any general, special or local law or charter, rule, regulation, judgment or order.

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

§ 3.30 Training requirements for auxiliary officers.

1. Every auxiliary officer in the state of New York must successfully complete a training program, a portion of which shall be prescribed by the municipal police training council and a portion of which shall be prescribed by his or her appointing authority. The portion prescribed by the municipal police training council shall be comprised of subjects, and the hours each is to be taught, that shall be required of all types or classes of auxiliary officers. The hours of instruction required by the municipal police training council shall not exceed eighty hours, unless a greater amount is either required by law or regulation, or is requested by the appointing authority. The segment prescribed by the appointing authority for its appointees shall be comprised of subjects, and the hours each is to be taught, relating to the special nature of the duties of the auxiliary officers employed by it provided, however, that when the subjects prescribed by the appointing authority are identical to the subjects in the training program required by the municipal police training council, the appointing authority shall not be required to provide duplicate training for those subjects.

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

which appoints auxiliary officers shall provide the training mandated by this section, the cost of which will be borne by the appointing authority. Each auxiliary officer satisfactorily completing the course prescribed by the municipal police training council shall be awarded a certificate by the division of criminal justice services attesting to that effect, and no person appointed as an auxiliary officer shall exercise the powers of an auxiliary officer, unless he or she has received such certification within twelve months of appointment.

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

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

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

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

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

(b) for two years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as an auxiliary officer for less than two consecutive years; or

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

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

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