

# STATE OF NEW YORK

6685

2021-2022 Regular Sessions

## IN SENATE

May 12, 2021

Introduced by Sen. GRIFFO -- 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 creating the crime of committing an offense while impersonating a police officer or peace officer

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

1 Section 1. The penal law is amended by adding a new section 190.28 to  
2 read as follows:

3 § 190.28 Committing an offense while impersonating a police officer or  
4 peace officer.

5 1. A person is guilty of committing an offense while impersonating a  
6 police officer or peace officer when he or she commits a specified  
7 offense and during the course of such specified offense either:

8 (a) pretends to be a police officer or peace officer, or wears or  
9 displays without authority, any uniform, badge or other insignia or  
10 facsimile thereof, by which such police officer or peace officer is  
11 lawfully distinguished or expresses by his or her words or actions that  
12 he or she is acting with the approval or authority of any police depart-  
13 ment or law enforcement agency; or

14 (b) without authority to display on a motor vehicle lights or markings  
15 by which a motor vehicle operated by a police department or law enforce-  
16 ment agency is identified, displays such lights or markings; or displays  
17 upon a motor vehicle a red light, whether continuous or flashing, visi-  
18 ble from the front of such vehicle.

19 2. For the purposes of this section a "specified offense" is an  
20 offense defined by any of the following provisions of this chapter:  
21 section 100.00 (criminal solicitation in the fifth degree); section  
22 100.05 (criminal solicitation in the fourth degree); section 100.08  
23 (criminal solicitation in the third degree); section 100.10 (criminal  
24 solicitation in the second degree); section 100.13 (criminal sollicita-

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

LBD11393-01-1

tion in the first degree); section 115.00 (criminal facilitation in the fourth degree); section 115.01 (criminal facilitation in the third degree); section 115.05 (criminal facilitation in the second degree); section 115.08 (criminal facilitation in the first degree); section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 125.10 (criminally negligent homicide); section 125.15 (manslaughter in the second degree); section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); subdivision one of section 130.35 (rape in the first degree); subdivision one of section 130.50 (criminal sexual act in the first degree); subdivision one of section 130.65 (sexual abuse in the first degree); paragraph (a) of subdivision one of section 130.67 (aggravated sexual abuse in the second degree); paragraph (a) of subdivision one of section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.45 (custodial interference in the second degree); section 135.50 (custodial interference in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 145.15 (criminal tampering in the second degree); section 145.20 (criminal tampering in the first degree); section 145.40 (tampering with a consumer product in the second degree); section 145.45 (tampering with a consumer product in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 165.00 (misapplication of property); section 165.05 (unauthorized use of a vehicle in the third degree); section 165.15 (theft of services); section 165.20 (fraudulently obtaining a signature); section 165.30 (fraudulent accosting); section 195.05 (obstructing governmental administration in the second degree); section 195.07 (obstructing governmental administration in the first degree); section 195.08 (obstructing governmental administration by means of a

1 self-defense spray device); section 195.15 (obstructing firefighting  
2 operations); section 195.16 (obstructing emergency medical services);  
3 section 195.20 (defrauding the government); section 205.05 (escape in  
4 the third degree); section 205.10 (escape in the second degree); section  
5 205.15 (escape in the first degree); section 205.30 (resisting arrest);  
6 section 205.55 (hindering prosecution in the third degree); section  
7 205.60 (hindering prosecution in the second degree); section 205.65  
8 (hindering prosecution in the first degree); section 215.10 (tampering  
9 with a witness in the fourth degree); section 215.11 (tampering with a  
10 witness in the third degree); section 215.12 (tampering with a witness  
11 in the second degree); section 215.13 (tampering with a witness in the  
12 first degree); section 215.15 (intimidating a victim or witness in the  
13 third degree); section 215.16 (intimidating a victim or witness in the  
14 second degree); section 215.17 (intimidating a victim or witness in the  
15 first degree); section 215.23 (tampering with a juror in the second  
16 degree); section 215.25 (tampering with a juror in the first degree);  
17 section 215.40 (tampering with physical evidence); section 215.45  
18 (compounding a crime); section 215.50 (criminal contempt in the second  
19 degree); section 215.51 (criminal contempt in the first degree); section  
20 215.52 (aggravated criminal contempt); section 240.21 (disruption or  
21 disturbance of a religious service, funeral, burial or memorial  
22 service); section 240.26 (harassment in the second degree); section  
23 240.48 (disseminating a false registered sex offender notice); section  
24 240.50 (falsely reporting an incident in the third degree); section  
25 240.55 (falsely reporting an incident in the second degree); section  
26 240.60 (falsely reporting an incident in the first degree); section  
27 240.70 (criminal interference with health care services or religious  
28 worship in the second degree); section 240.71 (criminal interference  
29 with health care services or religious worship in the first degree);  
30 section 241.02 (harassment of a rent regulated tenant in the second  
31 degree); section 241.05 (harassment of a rent regulated tenant in the  
32 first degree); section 250.05 (eavesdropping); section 250.25 (tampering  
33 with private communications); section 250.30 (unlawfully obtaining  
34 communications information); section 250.45 (unlawful surveillance in  
35 the second degree); section 250.50 (unlawful surveillance in the first  
36 degree); section 265.01 (criminal possession of a weapon in the fourth  
37 degree); section 265.02 (criminal possession of a weapon in the third  
38 degree); section 265.03 (criminal possession of a weapon in the second  
39 degree); section 265.04 (criminal possession of a dangerous weapon in  
40 the first degree); section 265.06 (unlawful possession of a weapon upon  
41 school grounds); section 265.08 (criminal use of a firearm in the second  
42 degree); section 265.09 (criminal use of a firearm in the first degree);  
43 subdivision three of section 265.10 (manufacture, transport, disposition  
44 and defacement of weapons and dangerous instruments and appliances);  
45 section 270.20 (unlawful wearing of a body vest); section 485.05 (hate  
46 crimes); section 490.25 (crime of terrorism); section 490.30 (hindering  
47 prosecution of terrorism in the second degree); section 490.35 (hinder-  
48 ing prosecution of terrorism in the first degree); section 490.37 (crim-  
49 inal possession of a chemical weapon or biological weapon in the third  
50 degree); section 490.40 (criminal possession of a chemical weapon or  
51 biological weapon in the second degree); section 490.45 (criminal  
52 possession of a chemical weapon or biological weapon in the first  
53 degree); section 490.47 (criminal use of a chemical weapon or biological  
54 weapon in the third degree); section 490.50 (criminal use of a chemical  
55 weapon or biological weapon in the second degree); or any attempt or  
56 conspiracy to commit any of the foregoing offenses.

1     3. (a) When a person is convicted of committing an offense while  
2 impersonating a police officer or peace officer pursuant to this  
3 section, and the specified offense is a violent felony offense, as  
4 defined in section 70.02 of this chapter, the offense of committing an  
5 offense while impersonating a police officer or peace officer shall be  
6 deemed a violent felony offense.

7     (b) When a person is convicted of committing an offense while imperso-  
8 nating a police officer or peace officer pursuant to this section and  
9 the specified offense is a misdemeanor or a class C, D or E felony, the  
10 offense of committing an offense while impersonating a police officer or  
11 peace officer shall be deemed to be one category higher than the speci-  
12 fied offense the defendant committed, or one category higher than the  
13 offense level applicable to the defendant's conviction for an attempt or  
14 conspiracy to commit a specified offense, whichever is applicable.

15     (c) Notwithstanding any other provision of law, when a person is  
16 convicted of committing an offense while impersonating a police officer  
17 or peace officer pursuant to this section and the specified offense is a  
18 class B felony:

19     (i) the maximum term of the indeterminate sentence must be at least  
20 six years if the defendant is sentenced pursuant to section 70.00 of  
21 this chapter;

22     (ii) the term of the determinate sentence must be at least eight years  
23 if the defendant is sentenced pursuant to section 70.02 of this chapter;

24     (iii) the term of the determinate sentence must be at least twelve  
25 years if the defendant is sentenced pursuant to section 70.04 of this  
26 chapter;

27     (iv) the maximum term of the indeterminate sentence must be at least  
28 four years if the defendant is sentenced pursuant to section 70.05 of  
29 this chapter; and

30     (v) the maximum term of the indeterminate sentence or the term of the  
31 determinate sentence must be at least ten years if the defendant is  
32 sentenced pursuant to section 70.06 of this chapter.

33     (d) Notwithstanding any other provision of law, when a person is  
34 convicted of committing an offense while impersonating a police officer  
35 or peace officer pursuant to this section and the specified offense is a  
36 class A-I felony, the minimum period of the indeterminate sentence shall  
37 be not less than twenty years.

38     (e) Notwithstanding any other provision of law, when a person is  
39 convicted of committing an offense while impersonating a police officer  
40 or peace officer pursuant to this section and the specified offense is  
41 the violation of harassment in the second degree as defined in section  
42 240.26 of this part, the committing of an offense while impersonating a  
43 police officer or peace officer shall be deemed to be a class A misde-  
44 meanor.

45     § 2. Subdivision 2 of section 70.25 of the penal law, as amended by  
46 chapter 56 of the laws of 1984, is amended to read as follows:

47     2. When more than one sentence of imprisonment is imposed on a person  
48 for two or more offenses committed through a single act or omission, or  
49 through an act or omission which in itself constituted one of the  
50 offenses and also was a material element of the other or a violation of  
51 section 190.28 of this chapter and a violation of section 190.25 or  
52 190.26 of this chapter committed through a single act or criminal trans-  
53 action, the sentences, except if one or more of such sentences is for a  
54 violation of section 270.20 of this chapter, must run concurrently.

55     § 3. This act shall take effect on the first of November next succeed-  
56 ing the date on which it shall have become a law.