STATE OF NEW YORK

497

2023-2024 Regular Sessions

IN ASSEMBLY

January 9, 2023

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

AN ACT to amend the penal law, in relation to the use of pepper spray by police officers and peace officers

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

Section 1. Section 120.00 of the penal law is amended to read as follows:

§ 120.00 Assault in the third degree.

A person is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or

2. He recklessly causes physical injury to another person; or

3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument[~~.~~]; or

4. A police officer, peace officer, or other public servant who is authorized to make an arrest for a criminal offense intentionally or recklessly uses pepper spray on an individual that is not being lawfully arrested or uses pepper spray other than pursuant to article thirty-five of this chapter. Any use of pepper spray as crowd control shall constitute a violation of this section, and each individual affected shall constitute a separate incidence of assault in the third degree.

Assault in the third degree is a class A misdemeanor.

§ 2. This act shall take effect immediately.

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

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