# STATE OF NEW YORK

8140

2023-2024 Regular Sessions

# IN ASSEMBLY

October 13, 2023

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

AN ACT to amend the penal law, in relation to the sale and possession of self-defense spray devices; and to repeal certain provisions of such law relating thereto

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

Section 1. Paragraph 14 of subdivision a of section 265.20 of the penal law, as added by chapter 354 of the laws of 1996, is amended to read as follows:

14. Possession in accordance with the provisions of this paragraph of a self-defense spray device as defined herein for the protection of a person or property and use of such self-defense spray device under circumstances which would justify the use of physical force pursuant to article thirty-five of this chapter.

(a) As used in this section "self-defense spray device" shall mean a pocket sized spray device which contains and releases a chemical or organic substance which is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air or any like device containing tear gas, pepper or similar disabling agent.

(b) The exemption under this paragraph shall not apply to a person who:

(i) is less than eighteen years of age; or

(ii) has been previously convicted in this state of a felony or any assault; or

(iii) has been convicted of a crime outside the state of New York which if committed in New York would constitute a felony or any assault crime.

(c) The department of health, with the cooperation of the division of criminal justice services and the superintendent of state police, shall

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

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develop standards and promulgate regulations regarding the type of self-defense spray device which may lawfully be purchased, possessed and used pursuant to this paragraph. **The regulations shall permit the shipping and sale of such self-defense spray devices within the state in accordance with this subdivision.** The regulations shall include a requirement that every self-defense spray device which may be lawfully purchased, possessed or used pursuant to this paragraph have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a criminal offense under the law. The contents are dangerous - use with care. [~~This device shall not be sold by anyone other than a licensed or authorized dealer.~~] Possession of this device by any person under the age of eighteen or by anyone who has been convicted of a felony or assault is illegal. Violators may be prosecuted under the law."

**(d) Every self-defense spray device shall be accompanied by an insert or inserts which include directions for use, first aid information, safety and storage information and which shall also contain a toll-free telephone number for the purpose of allowing any purchaser to call and receive additional information regarding the availability of local courses in self-defense training and safety in the use of a self-defense spray device.**

**(e) Before delivering a self-defense spray device to any person, the seller shall require proof of age and a sworn statement on a form approved by the superintendent of state police that such person has not been convicted of a felony or any crime involving an assault. Such forms shall be forwarded to the division of state police at such intervals as directed by the superintendent of state police. Absent any such direction the forms shall be maintained by the vendor and shall be available at all reasonable hours for inspection by any peace officer or police officer, acting pursuant to his or her special duties. No more than two self-defense spray devices may be sold at any one time to a single purchaser.**

§ 2. Subdivision 15 of section 265.20 of the penal law is REPEALED.

§ 3. This act shall take effect immediately.